



AGENDA FOR THE HEARING EXAMINER

Tuesday, May 2, 2017

9:00 AM

Council Chambers

1. HEARINGS CALLED TO ORDER

2. HEARINGS

- A. Case #DE16-0056*; Address: 2852 SW 51st Street; Applicant: Samir Salman
- B. Case #PDP16-0004*; Address: 3333 Old Burnt Store Road North; Applicant: Kevin and Gayle McGrath
- C. Case #ZA17-0001*; Address: 401 SW 7th Place; Applicant: Jose Toledo

3. DATE AND TIME OF NEXT HEARINGS

- A. Tuesday, May 16, 2017, at 9:00 a.m., in Council Chambers

4. ADJOURNMENT

In accordance with the Americans with Disabilities Act and Florida Statutes 286.26, persons needing a special accommodation to participate in this proceeding should contact the City Clerk's Department whose office is located at Cape Coral City Hall, 1015 Cultural Park Boulevard, Cape Coral, Florida; telephone 1-239-574-0411 for assistance, if hearing impaired, telephone the Florida Relay Service Numbers, 1-800-955-8771 (TDD) or 1-800-955-8700 (v) for assistance.

If a person decides to appeal any decision made by the Board/Commission/Committee with respect to any matter considered at such meeting or hearing, he will need a record of the proceedings, and for such purpose, he may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is based.

PLEDGE OF CIVILITY

We will be respectful of each other even when we disagree.
We will direct all comments to the issues. We will avoid personal attacks.

The hearing shall, to the extent possible, be conducted as follows:

1. The Clerk shall read into the record the Ordinance or Resolution Title and Number, or the Applicant's name, file number, and the subject matter to be decided if there is no ordinance or resolution.
2. The Applicant, staff, and all Participants requesting to speak or present evidence or both the hearing shall be collectively sworn by an oath or affirmation by the Clerk.
3. Staff will testify regarding proper notice of the Hearing in accordance with City requirements.
4. The Applicant may waive the Applicant's right to an evidentiary hearing if Applicant agrees with the staff recommendation and no one from the audience wishes to speak for or against the application. The Hearing Examiner shall rule on the matter or make a recommendation, based upon the staff report and any other materials contained within the official file. Regardless of a waiver by the Applicant, a Public Hearing shall be held for all decisions requiring an ordinance or resolution.
5. If there is an evidentiary hearing, the order of the presentation shall be as follows, unless the Hearing Examiner, determines to proceed in a different order, taking proper consideration of fairness and due process:
 - The Applicant shall make the Applicant's presentation, including offering any documentary evidence, and introduce any witnesses as Applicant desires. The Applicant shall present the Applicant's entire case in thirty (30) minutes.
 - Staff shall present a brief synopsis of the application; introduce any appropriate additional exhibits from the official file that have not already been transmitted to the Hearing Examiner with the agenda materials, as staff desires; summarize issues; and make a recommendation on the application. Staff shall also introduce any witnesses that it wishes to provide testimony at the hearing. Staff shall present its entire case in thirty (30) minutes.
 - Participants in opposition to or support of the application shall make their presentation in any order as determined by the Hearing Examiner. Each Participant shall present their argument in 5 minutes.
 - The Applicant may cross-examine any witness and respond to any testimony presented.
 - Staff may cross-examine any witness and respond to any testimony presented.
 - The Hearing Examiner may choose to allow Participants to respond to any testimony if the Hearing Examiner deems the response to be necessary to ensure fairness and due process.
 - The Hearing Examiner, may ask questions of the staff, Applicant, and Participants.
 - Final argument may be made by the Applicant, related solely to the evidence in the record.
 - Final argument may be made by the staff, related solely to the evidence in the record.
 - For good cause shown, the Hearing Examiner may grant additional time to any of the hereinabove time limitations.
 - The Hearing Examiner's, decisions must be based upon Competent Substantial Evidence in the record.

Item Number: 2.A.
Meeting Date: 5/2/2017
Item Type: HEARINGS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Case #DE16-0056*; Address: 2852 SW 51st Street; Applicant: Samir Salman

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? No
If Yes, Priority Goals Supported are listed below.
If No, will it harm the intent or success of the Strategic Plan? No

Planning & Zoning Recommendations:

SUMMARY EXPLANATION AND BACKGROUND:

The applicant requests a 180 sq. ft. deviation to Section 3.16.2.D of the Land Use and Development Regulations (LUDR) to allow a marine improvement with an area of 1,380 sq. ft.

LEGAL REVIEW:

EXHIBITS:

See attached "Backup Material"

PREPARED BY:

Kristin Division- Community Department- Planning
Kantarze Development

SOURCE OF ADDITIONAL INFORMATION:

Justin Heller, Planner, 239-574-0587, jheller@capecoral.net

ATTACHMENTS:

Description	Type
Backup Material	Backup Material



DEPARTMENT OF COMMUNITY DEVELOPMENT
REQUEST TO BOARD OF ZONING ADJUSTMENT & APPEAL
FOR A DEVIATION TO MARINE IMPROVEMENT STANDARDS

Case # DE DE16-0056

RESIDENTIAL FEE \$150.00; COMMERCIAL FEE \$673.00. In addition to the application fee, all required advertising costs are to be paid by the applicant (ORD 39-03, Sec. 5.4). Advertising costs will be billed and must be paid prior to hearing.

Following the approval of your request, the applicant shall be responsible for paying the City to electronically record the final signed Resolution or Ordinance with the Lee County Clerk of Court. Until this fee is paid, restrictions on the issuance of any City permits will remain on the affected property that will prevent the City from issuing any applicable permits, site plans, certificates of use, or certificates of occupancy for any property covered by the Resolution or Ordinance.

APPLICANT/OWNER OF PROPERTY

Samir Salman
Email Address js.Salman@yahoo.com

Address

2887 Chestnut Run Dr
City Blomfield Hills State MI Zip Code 48302
Phone 248-464-0512

AUTHORIZED REPRESENTATIVE

Terry Willoughby
Email Address Terry@wbclinks.com

Address

1008 NE 7th Ter Unit E
City Cape Coral State FL Zip Code 33909
Phone (239) 283 2013

Location: Unit 72 Block 5008 Lot(s) 26+27 Subdivision _____

Legal Description 2852 SW 51st St, Cape Coral, FL

Address of Property 2852 SW 51st St Plat Book _____ Page _____

Current Zoning Single-family residential Strap Number 17-45-23-C1-05008.0260

THIS APPLICATION SHALL ALSO HAVE ANY ADDITIONAL REQUIRED SUPPORTING DOCUMENTS

The owner of this property, or his authorized representative agrees to conform to all applicable laws of the City of Cape Coral and to all applicable Federal, State, and County laws and certifies that all information supplied is correct to the best of their knowledge.

THIS APPLICATION SHALL ALSO HAVE ANY ADDITIONAL REQUIRED SUPPORTING DOCUMENTS

Terry Willoughby
Name (Type or Print)

Terry Willoughby
Applicant's Signature

STATE OF FL COUNTY OF Lee

Sworn to (or affirmed) and subscribed before me this 30th day of November 2016, by Terry Willoughby, who is personally known or has produced _____ as identification.



Exp. Date 6-18-18 Commission # FF 134167

M. Makeeva
Signature of Notary Public
Margarita Makeeva
Print Name of Notary Public



DEPARTMENT OF COMMUNITY DEVELOPMENT
REQUEST TO BOARD OF ZONING ADJUSTMENT & APPEAL

ACKNOWLEDGEMENT FORM

I have read and understand the above instructions. Hearing date(s) will be confirmed when I receive a copy of the Notice of Public Hearing stipulating the day and time of any applicable hearings.

I acknowledge that I, or my representative, must attend any applicable meetings scheduled for the Planning & Zoning Commission/Local Planning Agency, Board of Zoning Adjustments and Appeals, and Council.

I will have the opportunity, at the hearing, to present verbal information pertaining to my request that may not be included in my application.

I understand that I am responsible for recording the approved Resolution/Ordinance with the Lee County Clerk of Circuit Courts and providing a copy of the recorded Resolution/Ordinance to the City of Cape Coral Planning Division.

I understand any decision rendered by the CITY shall be subject to a thirty (30) day appeal period. Any work performed within the thirty (30) day time frame or during the APPEAL process will be completed at the applicant's risk.

I understand I am responsible for all fees, including advertising costs. All fees are to be submitted to the City of Cape Coral with the application or the item may be pulled from the agenda and continued to future date after fees are paid.

Please obtain all necessary permits prior to commencing any phase of construction.

Please indicate on a separate sheet those persons to whom you wish a copy of the Public Hearing Notice sent.

By submitting this application, I acknowledge and agree that I am authorizing the City of Cape Coral to inspect the subject property and to gain access to the subject property for inspection purposes reasonably related to this application and/or the permit for which I am applying.

Samir Salman
PROPERTY OWNER (PLEASE PRINT)

S. Salman
PROPERTY OWNER (SIGNATURE)

STATE OF FL COUNTY OF Lee

Sworn to (or affirmed) and subscribed before me this 23rd day of November 2016, by
Samir Salman, who is personally known or has produced

Michigan DL 5455758013344 as identification.



Exp. Date 6.18.18 Commission Number FF 134167

M. Makeeva
Signature of Notary Public

Margarita Makeeva
Print Name of Notary Public



DEPARTMENT OF COMMUNITY DEVELOPMENT
REQUEST TO BOARD OF ZONING ADJUSTMENT & APPEAL

AUTHORIZATION TO REPRESENT PROPERTY OWNER(s)

PLEASE BE ADVISED THAT Terry Willoughby
(Name of person giving presentation)

IS AUTHORIZED TO REPRESENT ME IN THE APPEAL TO THE PLANNING & ZONING COMMISSION/LOCAL
PLANNING AGENCY, BOARD OF ZONING ADJUSTMENTS AND APPEALS AND/OR CITY COUNCIL FOR

Dock Deviation

(Type of Public Hearing – i.e. PDP, Zoning, Special Exception, Variance, etc.)

BLOCK 5008 LOTS 26+27 UNIT 72 SUBDIVISION _____

OR LEGAL DESCRIPTION _____

LOCATED IN THE CITY OF CAPE CORAL, COUNTY OF LEE, FLORIDA.

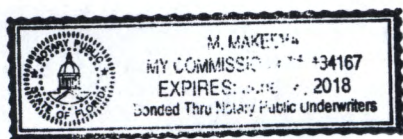
Samir Salman
PROPERTY OWNER (PLEASE PRINT)

S. Salman
PROPERTY OWNER (SIGNATURE)

STATE OF FL COUNTY OF Lee

Sworn to (or affirmed) and subscribed before me this 23rd day of November 20 16, by
Samir Salman, who is personally known or has produced Michigan DL
54557580133 as identification.

Exp. Date 6.18.18 Commission Number FF134167



M. Makeeva
Signature of Notary Public

Margarita Makeeva
Print Name of Notary Public

Note: Please list all owners, if a corporation; please supply the Planning Division with a copy of corporation papers.

Friday, April 7, 2017

Department of Community Development Director

City of Cape Coral

P.O. Box 150027

Cape Coral, FL 33915-0027

RE: Block 5008 Lots 26-27

Dear Director:

The purpose of this letter is to ask you to approve a dimensional marine deviation of a 1,380 - square foot wood dock that extends into the canal 30'0" and has 12'0" setbacks. Because our lot is oversized and we sit on a larger canal with a width of 225', we feel we have the room to construct a larger square footage dock and stay within the setback requirements.

We feel that the oversized shape of our property and the wider canal is different from other properties in the same zoning district. These special conditions do not result from our actions, but they do give us more room to accommodate this larger structure.

We feel that by applying for the deviation we are using the legal option that is available to many people who have oversized lots that sit on larger canals.

The literal interpretation of this ordinance would deprive us of the anticipated enjoyment we expected to have when we purchased this home on the waterfront.

The 1,380 - square foot dock is the minimum Variance that will allow us to get the full enjoyment out of our waterfront property.

Granting of this deviation would be within the purpose of this ordinance because it would not be injurious to the area or otherwise detrimental to the public welfare. The proposed dock would not impede on the adjacent properties, affect navigation in the canal, nor damage the surrounding landscape or wild life.

We respectfully request that you grant this dock deviance.

Sincerely,

Samir Salman

Planning Division Case Report
DE16-0056

Review Date: April 14, 2017

Owner/Applicant: Samir Salman

Authorized Representative: Terry Willoughby

Request: The applicant requests a 180 sq. ft. deviation to Section 3.16.2.D of the Land Use and Development Regulations (LUDR) to allow a marine improvement with an area of 1,380 sq. ft.

Location: 2852 SW 51st St.
Block 5008, Lots 26+27
17-45-23-C1-05008.0260

Prepared By: Justin Heller, Planner

Reviewed By: Mike Struve, AICP, Planning Team Coordinator

Approved By: Robert Pederson, AICP, Planning Manager

Recommendation: **Approval**

Property Description:

The 13,928 sq. ft. site is improved with marine improvements that include a seawall, dock, and boat lift with canopy (Exhibit 1). An existing home on the site was recently demolished to make way for construction of a new home. The surrounding area consists of single-family homes with a State Preserve to the south across the waterway. The site and all surrounding properties have a Single Family Future Land Use Classification and Single Family Residential (R-1B) Zoning. The site has 113 feet of water frontage on the South Spreader Waterway which is about 240 feet wide at the applicant's property.

Project Description:

LUDR, Section 3.16 restricts marine improvements to an area of 1,200 sq. ft. The applicant requests a 180 sq. ft. deviation to allow a marine improvement with an area of 1,380 sq. ft.

LUDR, Section 3.16.2.D.1 states,

"For parcels with more than 40 feet of water frontage, the maximum deck surface area coverage shall be calculated as follows: the linear feet of water frontage of the parcel minus 20 feet

times one-half times the linear feet of the maximum projection into the waterway (25% of the calculated width of the waterway or 30 feet, whichever is less). However, the maximum deck surface area allowed under this section shall not exceed 1,200 square feet for marine improvements which project from parcels utilized for single-family residential dwelling units in R-1, RD, RE, and/or RX zoning districts"

The site has about 113 feet of water frontage on the South Spreader Waterway. A marine improvement would be allowed to extend up to 30 feet into the canal. Based upon the applicant's water frontage and the allowable projection, the following formula would be used to calculate the maximum area for a marine improvement on the site.

$$(113 \text{ Frontage}) - 20 \times \frac{1}{2} (30 \text{ Projection}) = 1,395 \text{ sq. ft.}$$

The applicant proposes a new dock with an area of 1,380 sq. ft. An additional 368 sq. ft. of decking will cover the seawall and an existing concrete dock on the land, which will not project into the waterway. The dock includes two boat lifts and a double jet-ski lift (see Exhibit 2).

Analysis:

The Planning Division has reviewed this application based on LUDR, Section 3.16, Marine Improvements, and offers the following analysis:

LUDR, Section 3.16.9.C allows for deviations for marine improvements based upon the following general standards:

1. *The deviation is not contrary to the public interest.*

The marine improvement complies with the 30 ft. allowed projection into the waterway and the 12 ft. side setbacks. There is sufficient width in the 240 ft. wide canal to accommodate the marine improvement. The dock should not interfere with navigability or views of the waterway.

2. *The deviation will be in harmony with the general intent and purpose of this section.*

The intent of the regulation is to protect canal navigability and aesthetics by limiting the area of marine improvements through the application of a formula that considers canal width and water frontage of a site. Based solely on the formula found in LUDR, Section 3.16.2.D.1, that calculates the maximum area allowed, a marine improvement with a maximum area of 1,395 sq. ft. would be allowed.

The regulation also states that no marine improvement shall exceed 1,200 sq. ft. Staff notes that this ordinance does not consider properties that have significantly greater water frontage, compared to the more commonly encountered two-lot platted home sites with 80 ft. of water frontage.

There should be no navigation or safety issues accessing the marine improvements on either the subject property or neighboring properties.

3. *Conditions do not exist which are the result of the applicant.*

The applicant has a platted property with 113 ft. of water frontage which is greater than the standard 80 ft. wide sites. It can be reasonably expected that a larger marine improvement could be accommodated on this site compared to a typical site (10,000 sq. ft.; 80-ft. wide by 125-ft. long). Therefore, conditions do not exist which are a result of the applicant.

4. *A literal enforcement of the regulations involved would result in unnecessary or undue hardship.*

The owner could reasonably expect to construct a larger marine improvement commensurate with the amount of water frontage. The inability to construct an improvement that is 180 sq. ft. over the maximum could be considered a hardship because the formula considers factors including navigability and safety. The size of the improvement would be appropriate for the site and does not affect the canal or surrounding neighbors. Therefore, the applicant's inability to construct the improvement can be considered a hardship.

Specific Deviation Review Criteria Pursuant to LUDR Section 3.16.9.C

1. *Effect of proposed deviation on navigability of the waterway involved.*

The dock will extend 30 ft. (12.5%) into the canal and should have no effect on the ability of boaters to navigate within the waterway.

2. *Design, size and proposed location of the marine improvement for which the deviation is sought.*

Except for area, the dock meets all City requirements. The area of the dock is less than the maximum 1,395 sq. ft. calculated by the formula in Section 3.16.2.D.1.

3. *Effect, if any, that the proposed deviation would have on any extant marine improvements in the subject waterway.*

The dock complies with the setback requirements. The deviation should have no negative effect on the existing marine improvements in the canal.

4. *Is the minimum deviation from the provisions of the applicable section necessary to avoid the unnecessary or undue hardship required herein.*

The proposed deviation is not necessarily the minimum deviation, however, a 1,380 sq. ft. dock sought by the applicant is less than the 1,395 sq. ft. allowed by the formula in Section

3.16.2.D.1. The area of the marine improvement is appropriate considering the extent of water frontage on the site.

Comprehensive Plan:

The project is consistent with Objective 1.3 and Policy 1.3.5 of the Conservation and Coastal Management Element of the Comprehensive Plan. The deviation does not propose introducing any new fueling or repair facilities in a residential area.

Recommendation:

Planning staff finds that the proposed deviation meets the intent of the LUDRs and meets the requirements for a deviation under LUDR, Section 3.16.9.B.2. Staff recommends **approval** of the deviation with the following condition.

- 1) The project shall be consistent with the site plan prepared by Williamson Bros. Marine Construction, dated 3/24/17, which is attached as Exhibit 2 in this report.
- 2) A new construction permit for the home will be required prior to issuance of a dock permit.

Exhibit 1:

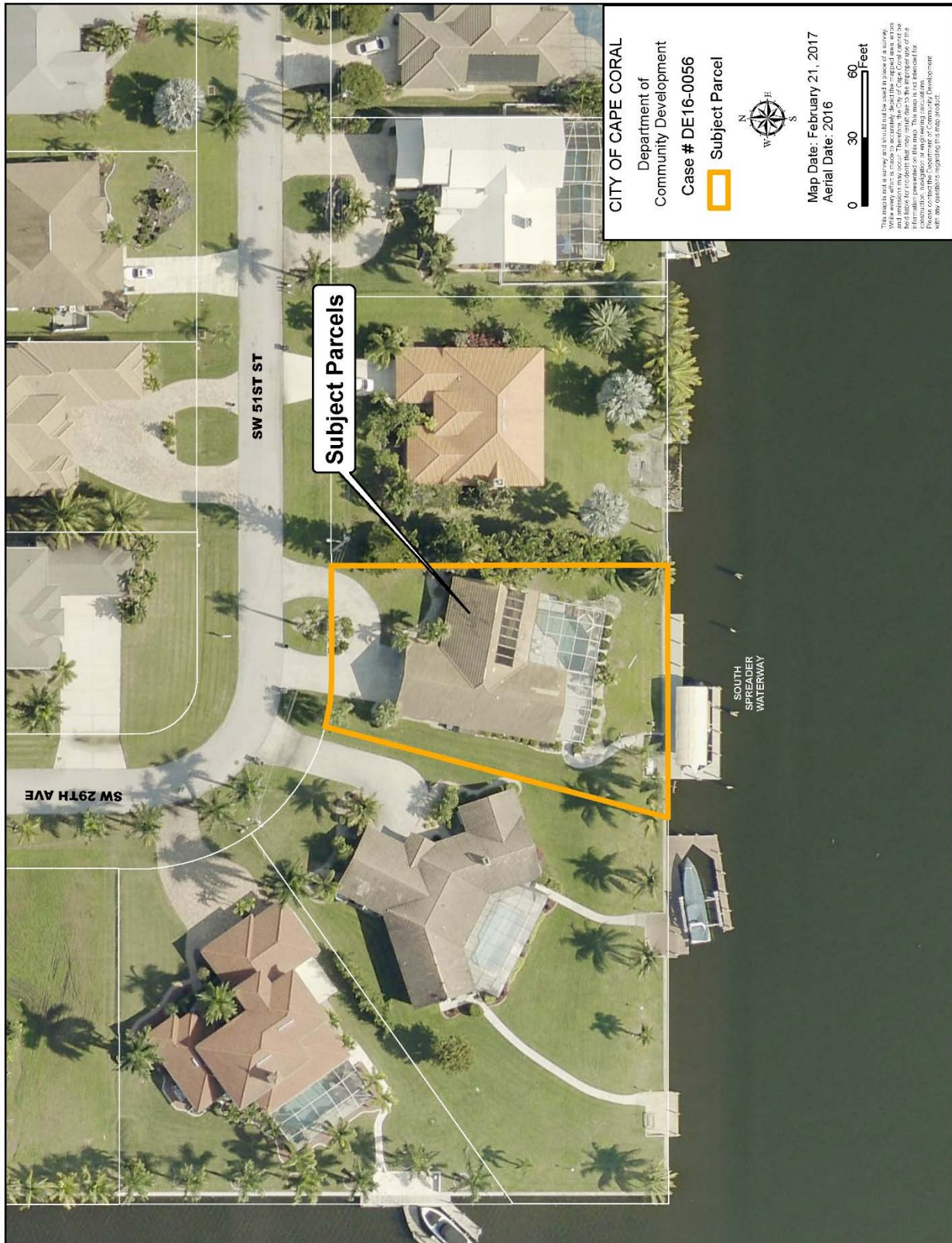
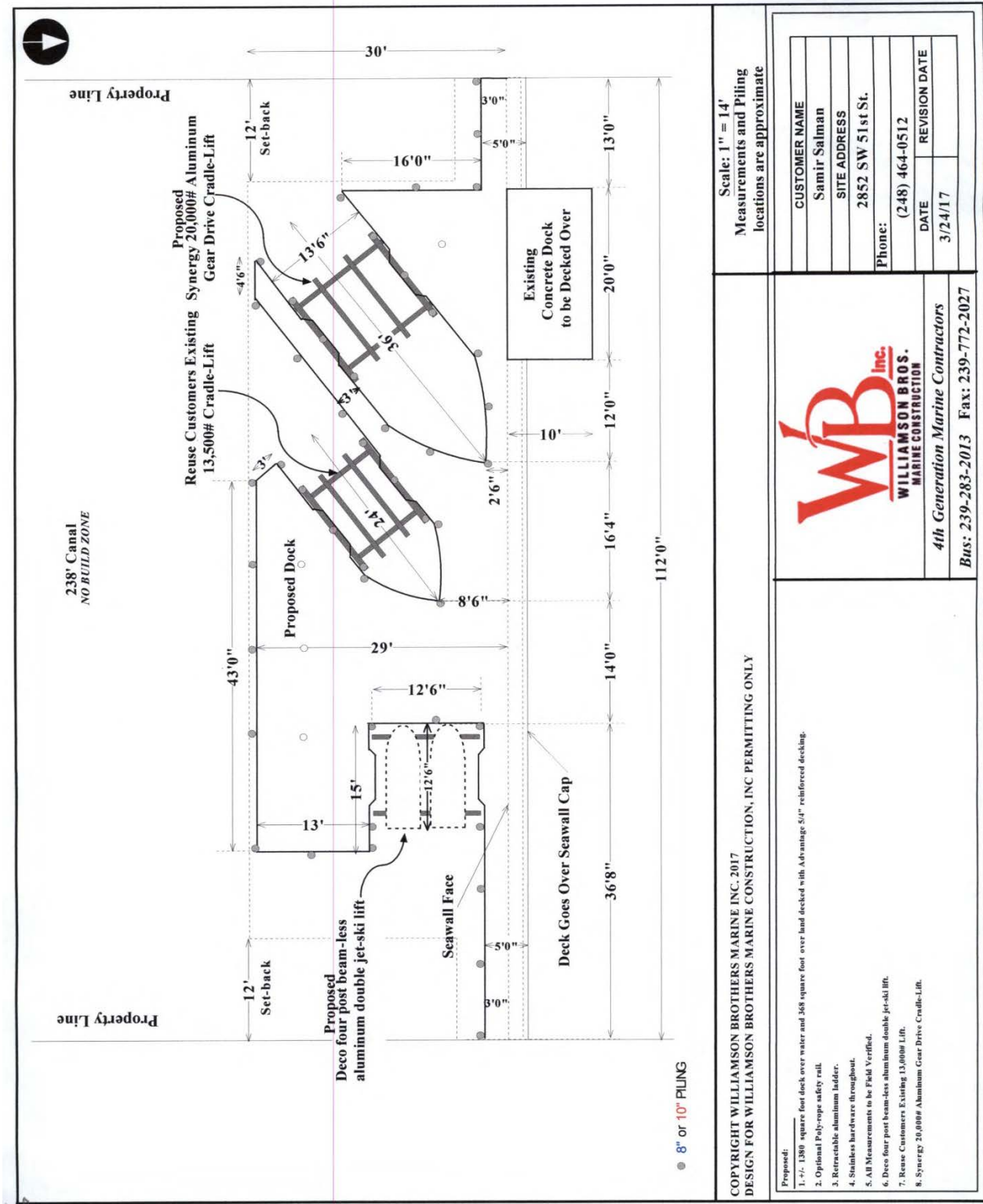
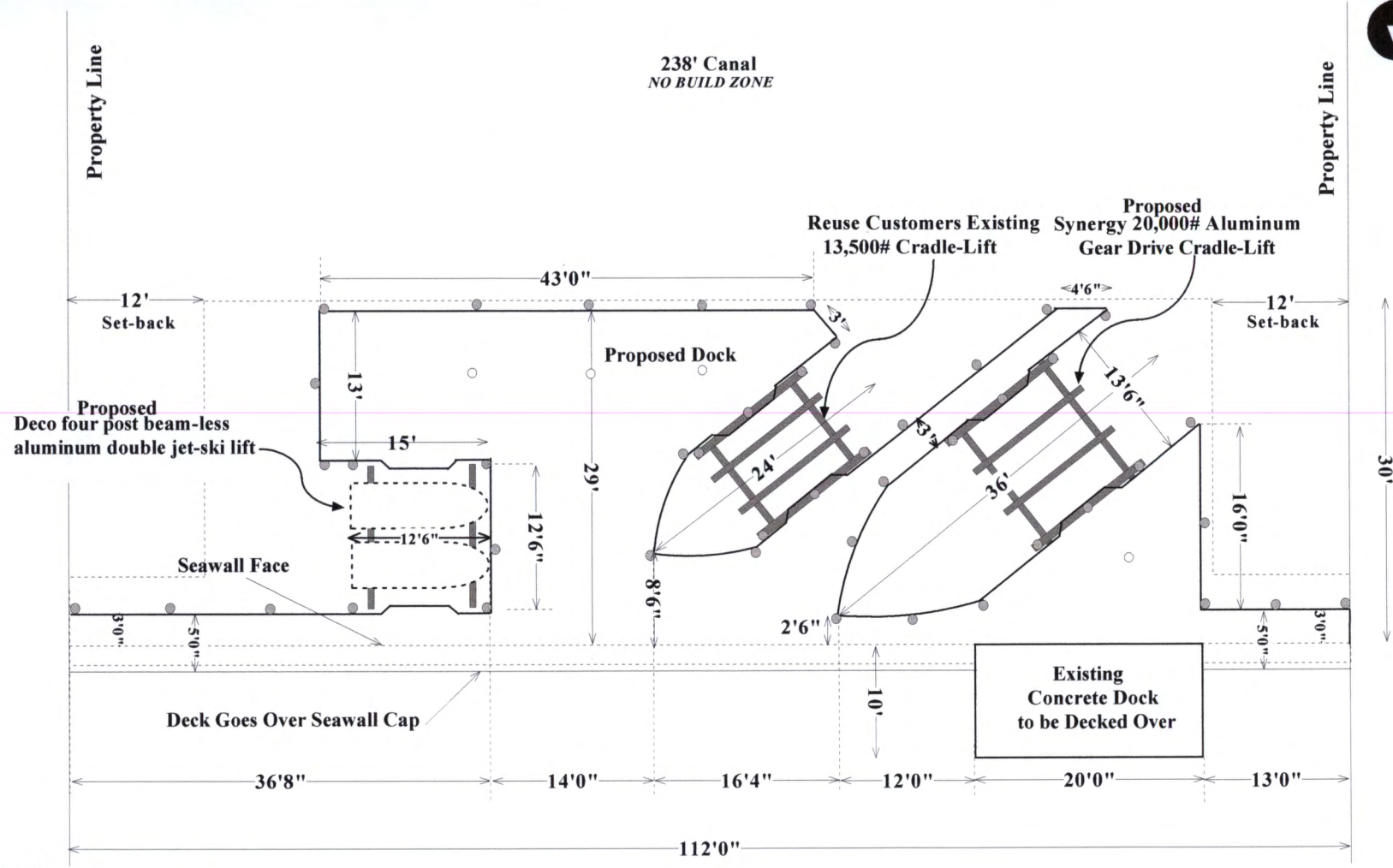


Exhibit 2:



DE16-56



17 MAR 30 PM 2.77 *

Revised site plan

COPYRIGHT WILLIAMSON BROTHERS MARINE INC. 2017
DESIGN FOR WILLIAMSON BROTHERS MARINE CONSTRUCTION, INC PERMITTING ONLY

Scale: 1" = 14'
Measurements and Piling
locations are approximate

Proposed:

1. +/- 1380 square foot dock over water and 368 square foot over land decked with Advantage 5/4" reinforced decking.
2. Optional Poly-rope safety rail.
3. Retractable aluminum ladder.
4. Stainless hardware throughout.
5. All Measurements to be Field Verified.
6. Deco four post beam-less aluminum double jet-ski lift.
7. Reuse Customers Existing 13,000# Lift.
8. Synergy 20,000# Aluminum Gear Drive Cradle-Lift.



4th Generation Marine Contractors

Bus: 239-283-2013 Fax: 239-772-2027

CUSTOMER NAME

Samir Salman

SITE ADDRESS

2852 SW 51st St.

Phone:

(248) 464-0512

DATE

3/24/17

REVISION DATE

Notice of Public Hearing

NOTICE OF PUBLIC HEARING

CASE NUMBER: DE16-0056

REQUEST: The applicant requests a 180 sq. ft. deviation to Section 3.16.2.D of the Land Use and Development Regulations (LUDR) to allow a marine improvement with an area of 1,380 sq. ft.

LOCATION: 2852 SW 51st Street

CAPE CORAL STAFF CONTACT: Justin Heller, Planner, 239-574-0587, jheller@capecoral.net

PROPERTY OWNER(S): Samir Salman

AUTHORIZED REPRESENTATIVE: Terry Willoughby

UPCOMING PUBLIC HEARING: Notice is hereby given that the City of Cape Coral Hearing Examiner will hold a public hearing at 9:00AM on Tuesday, May 2nd, 2017 on the above mentioned case. The public hearing will be held in the City of Cape Coral Council Chambers, 1015 Cultural Park Boulevard, Cape Coral, FL.

All interested parties are invited to appear and be heard. All materials presented before the Hearing Examiner will become a permanent part of the record. The public hearing may be continued to a time and date certain by announcement at this public hearing without any further published notice. Copies of the staff report will be available 5 days prior to the hearing. The file can be reviewed at the Cape Coral Community Development Department, Planning Division, 1015 Cultural Park Blvd., Cape Coral, FL.

DETAILED INFORMATION: The case report and colored maps for this application are available at the City of Cape Coral website, www.capecoral.net/publichearing (Click on 'Public Hearing Information', use the case number referenced above to access the information); or, at the Planning Division counter at City Hall, between the hours of 7:30 AM and 4:30 PM.

HOW TO CONTACT: Any person may appear at the public hearing and be heard, subject to proper rules of conduct. You are allowed sufficient time to write or appear at the public hearing to voice your objections or approval. Written comments filed with the Director will be entered into the record. Please reference the case number above within your correspondence and mail to: Department of Community Development, Planning Division, P.O. Box 150027, Cape Coral, FL 33915-0027. The hearings may be continued from time to time as necessary.

ADA PROVISIONS: In accordance with the Americans With Disabilities Act, persons needing a special accommodation to participate in this proceeding should contact the Human Resources Department whose office is located at Cape Coral City Hall, 1015 Cultural Park Boulevard, Cape Coral, Florida; telephone 1-239-574-0530 for assistance; if hearing impaired, telephone the Florida Relay Service Numbers, 1-800-955-8771 (TDD) or 1-800-955-8770 (v) for assistance.

by order of
Rebecca van Deutekom, MMC
City Clerk
REF # DE16-0056
AD# 2087291 Apr. 22, 2017

Department of Community Development
Planning Division

AFFIDAVIT

IN RE: APPLICATION OF: Samir Salman

APPLICATION NO: DE16-0056

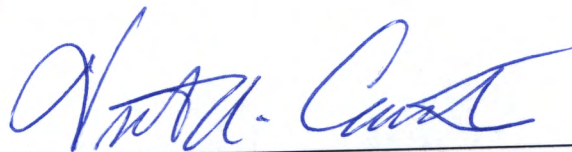
STATE OF FLORIDA)
) §
COUNTY OF LEE)

I, Vincent A. Cautero, AICP having first been duly sworn according to law, state on my oath the following:

That I am the Director of the Department of Community Development and responsible in performing duties as required for the City of Cape Coral.

That pursuant to City of Cape Coral Code. Section 8.3.2A and Section 8.11.3.A all required written notice and publication has been provided. Also, posting of a sign has been done when applicable per Section 8.3.2A.

DATED this 24th day of April, 2017.

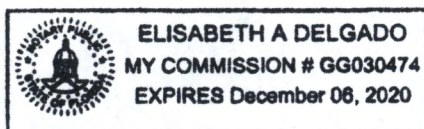


Vincent A. Cautero, AICP

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 24th day of April, 2017, by Vincent A. Cautero, AICP, who is personally known to me and who did not take an oath.

Exp. Date 12/6/20 Commission # 66030474



Elisabeth A. Delgado
Signature of Notary Public

Elisabeth A. Delgado
Print Name of Notary Public





CITY OF CAPE CORAL

Department of
Community Development
Planning Division

CURRENT ZONING MAP
500 Proximity Boundary

Case No. DE16-0056
Lots: 26-27

Legend

-  Subject Parcel
-  500 ft Boundary
-  PRES- Regulated by FLU
-  R-1B



FEBRUARY 1, 2017

0 70 140 210 280 Feet

This map is not a survey and should not be used in place of a survey. While every effort is made to accurately depict the mapped area, errors and omissions may occur. Therefore, the City of Cape Coral cannot be held liable for incidents that may result due to the improper use of the information presented on this map. This map is not intended for construction, navigation or engineering calculations. Please contact the Department of Community Development with any questions regarding this map product.

SRB

SOUTH
SPREADER
WATERWAY

NOGALES CANAL

SW 50TH TER

SW 29TH AVE

Subject Parcels

SW 51ST ST

ETERNITY
CANAL

SOUTH
SPREADER
WATERWAY

SW 28TH PL


500' Proximity Boundary



CITY OF CAPE CORAL

Department of
Community Development

Case # DE16-0056

 Subject Parcel



Map Date: February 21, 2017
Aerial Date: 2016

0 30 60
Feet

This map is not a survey and should not be used in place of a survey. While every effort is made to accurately depict the mapped area, errors and omissions may occur. Therefore, the City of Cape Coral cannot be held liable for incidents that may result due to the improper use of the information presented on this map. This map is not intended for construction, navigation or engineering calculations. Please contact the Department of Community Development with any questions regarding this map product.

Item Number: 2.B.
Meeting Date: 5/2/2017
Item Type: HEARINGS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Case #PDP16-0004*; Address: 3333 Old Burnt Store Road North; Applicant: Kevin and Gayle McGrath

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? No
If Yes, Priority Goals Supported are listed below.
If No, will it harm the intent or success of the Strategic Plan? No

Planning & Zoning Recommendations:

SUMMARY EXPLANATION AND BACKGROUND:

A PDP to subdivide a 9.53 acre site into three lots. The lots would be used for single-family residences. The entire property is undeveloped except for a small pond on the eastern portion of the site.

LEGAL REVIEW:

EXHIBITS:

See attached "Backup Material"

PREPARED BY:

Kristin Division- Community Department- Planning
Kantarze Development

SOURCE OF ADDITIONAL INFORMATION:

Chad Boyko, Principal Planner, 239-573-3162, cboyko@capecoral.net

ATTACHMENTS:

Description	Type
<input type="checkbox"/> Backup Material	Backup Material



PLANNED DEVELOPMENT PROJECT (PDP) APPLICATION
PROPERTY OWNER IS AN INDIVIDUAL(S)

Project Name: Shamrock Pines

Project Number: _____

To help prepare this application, the applicant should obtain copies of the following:

- Land Use and Development Regulations (this document is linked)
 1. Land Development Regulations (Article 4)
 2. Parking Requirements (Article 5.1)
 3. Landscape Ordinance (Article 5.2)
 4. Sign Ordinance (Article 7)
- NFPA 1 Fire Prevention Code
- Engineering Design Standards

The advisory review is conceptual only and any staff comments are subject to change based on detailed information with an application to the City of Cape Coral. Formal review may result in additional changes not noted at this time. The final design or project must comply with the Land Use and Development Regulations, Engineering Design Standards, City Code of Ordinances, Comprehensive Plan and other applicable laws and regulations.

ACKNOWLEDGEMENT

I Veronica Martin, as the owner of this property or the duly Authorized Representative, agree to conform to all applicable laws of the City of Cape Coral and to all applicable Federal, State and County laws, and certify that all information supplied is correct to the best of my knowledge.

In addition, I understand that prior to the issuance of the Certificate of Occupancy for this development, the engineer of record must supply the Department of Community Development with record drawings and a letter of substantial compliance for the project.

In addition, I authorize the staff of the City of Cape Coral to enter upon the property for purposes of investigating and evaluating the request made through this application.

Please note:

Advertising fees must be paid in full at least 10 days prior to public hearing or the item may be pulled from the agenda and continued to a future date once the fees have been paid.

* Veronica Martin, TDM Consulting, Inc.
NAME, Owner Auth. Rep. (Circle one) (PLEASE TYPE OR PRINT)

Veronica Martin
SIGNATURE

(SIGNATURE MUST BE NOTARIZED)

STATE OF FL, COUNTY OF Lee

Sworn to (or affirmed) and subscribed before me this 29 day of Feb, 2016, by
Veronica Martin who is personally known or produced
as identification.

Exp. Date: Feb 15, 2018 Commission Number: FF 082181

Signature of Notary Public:
Printed name of Notary Public:

Michelle Addario
Michelle Addario



**Authorization to Represent Property Owner(s)
Property Owner is an Individual(s)**

Please be advised that Veronica Martin, TDM Consulting, Inc.
(Name of Authorized Representative(s), and his/her/their business entity, if any)

is authorized to submit an application and represent me in the hearing(s) to the Planning & Zoning Commission/Local Planning Agency, Board of Zoning Adjustments and Appeals and /or City Council for a Planned Development Project.

Unit _____ Block _____ Lot _____ Subdivision _____

Or Legal Description: ☒ (described as an exhibit A in Microsoft Word format and attached hereto)

* Kevin O. McGrath
PROPERTY OWNER

Gayle S. McGrath
PROPERTY OWNER

Kevin O McGrath
PROPERTY OWNER (Signature)

Gayle S McGrath
PROPERTY OWNER (Signature)

(SIGNATURE MUST BE NOTARIZED)

STATE OF FL, COUNTY OF Lee

Sworn to (or affirmed) and subscribed before me this 16 day of Feb, 2016 by

Kevin O McGrath & Gayle S. McGrath
who is/are personally known to me or produced _____
as identification.



Exp. Date: 6/1/2018 Commission Number: FF 089133

Signature of Notary Public:
Printed name of Notary Public:

Linda L Comer
Linda L. Comer

***Please include additional pages for multiple property owners.**

Authorization to Represent Property Owner(s)
Property Owner is an Individual(s)

Please be advised that Veronica Martin, TDM Consulting, Inc.
(Name of Authorized Representative(s), and his/her/their business entity, if any)

is authorized to submit an application and represent me in the hearing(s) to the Planning & Zoning Commission/Local Planning Agency, Board of Zoning Adjustments and Appeals and /or City Council for a Planned Development Project.

Unit _____ Block _____ Lot _____ Subdivision _____

Or Legal Description: ☒ (described as an exhibit A in Microsoft Word format and attached hereto)

* Kevin O. McGrath II
PROPERTY OWNER

Kevin O. McGrath II
PROPERTY OWNER (Signature)

Michael B. McGrath
PROPERTY OWNER

Michael B. McGrath
PROPERTY OWNER (Signature)

(SIGNATURE MUST BE NOTARIZED)

STATE OF FL, COUNTY OF Lee

Sworn to (or affirmed) and subscribed before me this 16 day of Feb, 2016, by

Kevin O. McGrath, II & Michael B. McGrath
as identification. who is/are personally known to me or produced _____



Exp. Date: 6/1/2018 Commission Number: FF 089133

Signature of Notary Public:
Printed name of Notary Public:

Linda L. Comer
Linda L. Comer

*Please include additional pages for multiple property owners.

PDP Applicant Checklist

Project Name: Shamrock Pines

Applicant must submit the completed application and the associated documentation listed below, collated into 17 separate packets (one (1) original and 16 copies).

These are minimum requirements for all PDP applications. Based on the nature of your project, additional items may be required by staff.

Incomplete applications will not be accepted

- ☒ All application pages must be initialed by the property owner or their authorized representative
- ☒ 24" x 36" engineered PDP Development Plans, including landscape buffer areas and building elevations – See pages 7 – 10 for further information
- ☒ Certified Boundary Surveys, in NGVD 1929, completed within the last six (6) months showing elevations – See page 7 for further information
- ☒ PDP application fees paid in full at time of application – See page 11 for further information
- ☒ Letter of Intent (LOI) – See page 6 for further instructions
- ☒ Environmental Survey/Report – See page 7 for further instructions
- ☒ Warranty or Quit Claim Deed – Applicant shall provide a copy of Warranty or Quit Claim Deed for one hundred (100) percent of the property comprising the Planned Development Project.
- ☐ Vacation of Plat requests must include letter of "No Objection" from the electric company, the telephone company, and the cable company – See page 9 for further instructions
- ☒ Page 1 must be signed and notarized by either all property owner(s) or the authorized agent
- ☒ The "Authorization to Represent Property Owners", page 2 of the application, must be signed by all property owner(s) and notarized

As an alternative to submitting everything in paper format, the applicant may opt to submit the following:

- ☒ 11 sets of plans, in paper format, as described above
- ☒ 11 signed and sealed Boundary Surveys, in paper format, as described above
- ☒ One (1) copy of the application & all other documents you are submitting for review
- ☒ 1 CD/DVD with PDFs of documents you are submitting:
 - o Each document you are submitting needs to be a separate PDF, appropriately identified by name. For example, the application will be one PDF, titled "Application", the Letter of Intent will be another PDF, titled "Letter of Intent", plans, boundary surveys, etc.

GENERAL INFORMATION

Project Name: Shamrock Pines
Applicant: Veronica Martin, TDM Consulting, Inc.
Address: 43 Barkley Circle, Suite 200, Fort Myers, FL 33907
Phone: 239-433-4231 Fax: 239-433-9632 E-Mail: vmartin@tdmconsulting.com

***Property Owner:** Kevin McGrath, Gayle McGrath, Kevin McGrath II, & Michael McGrath
Address 1751 NE Pine Island Rd. #155, PMB - 232, Cape Coral, FL 33909
Phone 239-872-1836 Fax E-Mail sailcat53@aol.com

Authorized Representative Veronica Martin, TDM Consulting, Inc.
Address 43 Barkley Circle, Suite 200
Phone 239-433-4231 Fax 239-433-9632 E-Mail vmartin@tdmconsulting.com

Location

Unit Block Lot(S)
Subdivision Strap Number(s) 19-43-23-C4-00003.0340

Legal Description ☒ (Described as Exhibit A in Microsoft Word Format and attached hereto)

Property Address: 3333 Old Burnt Store Rd. N, Cape Coral, FL 33993
Plat Book Page Current Zoning A Future Land Use MX

This application includes the following requests: (Please check all that apply)			
<input checked="" type="checkbox"/> Subdivision	<input type="checkbox"/> Special Exception	<input type="checkbox"/> Rezoning	<input type="checkbox"/> Variance
<input type="checkbox"/> Deviation to Landscaping	<input type="checkbox"/> Deviation to Non-residential Design Standards	<input type="checkbox"/> Deviation to Engineering Design Standards (EDS)	<input type="checkbox"/> All Other Deviation Requests
<input type="checkbox"/> Borrow Pit	<input type="checkbox"/> Vacation of Plat		

***Please include additional pages for multiple property owners.**

PROPERTY and PROJECT DEVELOPMENT DATA

a.	Zoning District	<u>A</u>		
b.	Future Land Use Class	<u>MX</u>		
c.	Area of Subject Property	<u>9.521</u>	acres	
d.	Type of Development	<u>Subdivision</u>		
e.	Estimated Number of Employees	<u>NA</u>		
	Number of Seats in Assembly	<u>NA</u>		
f.	Parking Spaces Required	<u>NA</u>		
g.	Parking Spaces Provided	<u>NA</u>		
h.	Parking and Street Area	<u>NA</u>	sq. ft.	<u> </u> % of Site
i.	Ground Floor Building Area	<u>NA</u>	sq. ft.	<u> </u> % of Site
j.	Total Floor Area	<u>NA</u>	sq. ft.	<u> </u> % of Site
k.	Building Heights	<u>NA</u>	feet	<u> </u> stories
l.	Total Proposed Impervious Surface Area	sq. ft. <u>NA</u>		% of Site <u> </u>
m.	Permanent Open Space	sq. ft. <u>NA</u>		% of Site <u> </u>
	Landscaped Area	<u>NA</u>	sq. ft.	% of Site <u> </u>
n.	Recreation Area	<u>NA</u>	sq. ft.	% of Site <u> </u>

If the proposed project is a multifamily residential development, the following additional data shall be shown on the plans. NA

o.	Number of Dwelling Units (du)	<u> </u>
p.	Gross Density (du/acres)	<u> </u>
q.	Number, Type, and Floor Area of each Dwelling Unit:	
1.	Efficiency	<u> </u> Floor Area <u> </u> sq. ft. <u> </u>
2.	1 Bedroom	<u> </u> Floor Area <u> </u> sq. ft. <u> </u>
3.	2 Bedroom	<u> </u> Floor Area <u> </u> sq. ft. <u> </u>
4.	3 Bedroom	<u> </u> Floor Area <u> </u> sq. ft. <u> </u>
5.	4 Bedroom	<u> </u> Floor Area <u> </u> sq. ft. <u> </u>

LETTER OF INTENT

Please include a Letter of intent (LOI), stipulating your request, addressed to the Community Development Director. This letter must specify all applicable requests. Such requests may include any and/or all of the following:

- a. General purpose and intent of the PDP
- b. Subdivision requests – See Article 4.1 and 4.2.5
- c. Rezoning requests specifying the actual request and explanation of need for the rezoning
- d. Special exception requests and explanation of need for the special exception
- e. Variance requests specifying the actual request and explanation of need. All variance requests must address the five (5) criteria for the granting the a variance, per Land Use and Development Regulations, section 8.10. Note: Variances run with the land.
- f. Vacation of Plat as outlined in section 8.11 and explanation of vacation request
- g. Borrow pit requests as outlined in section 3.23, 4.2.5, and 8.3.2

DEVIATION REQUEST LETTER(S) NA

Applicant must complete a separate deviation request letter for each deviation type requested. Please ensure that proper justification for the requested deviation accompanies each request. Staff will not analyze any requested deviation that does not include justification for the deviation sought and this may result in a rejection of your application materials or a hold in its review. Refer to the appropriate section of the LUDRs for guidance on the criteria for which a particular deviation may be sought. Note: Deviations do not run with the land.

- Landscaping Deviations shall be in accordance with Section 5.2.19
- Non-residential Design Standards Deviations shall be in accordance with Section 5.6.10 Deviation,
- Engineering Design Standards (EDS) Deviations in accordance with sheet 1, "Foreword" paragraph 5,
- All Other Deviation Requests, shall be in accordance with Section 4.2.4.K

TRAFFIC GENERATION ESTIMATE NA

The following will determine the need of a Traffic Impact Statement. Trip Generation Estimate, based on the most current edition of the Institute of Transportation Engineers (ITE) Trip Generation manual:

ITE Code _____ Is estimate based on locally collected data? _____

Regression equation (if used) _____

Independent Variable _____

Daily Two Way Trip Estimate _____

Peak Hour (of generator) Entering _____

Peak Hour (of generator) Exiting _____

Total Peak Hour (of generator) _____

Peak Hour Entering and Exiting trips greater than 300 trips _____

If the total peak hour traffic exceeds 300 trips, a Traffic Impact Statement (TIS) will be required. A methodology meeting with the City staff is required prior to submitting the TIS. The methodology meeting will be scheduled after the initial submittal of the PDP application.

GRAPHIC STANDARDS: GENERAL INFORMATION

Sheet # of submitted plans: The Development Plan shall be of sufficient scale to show all detail. The scale of the Plan shall be illustrated by a graphic scale on every sheet. The date and true north arrow shall be shown on every sheet. The following general information is required:

- | | |
|----------|---|
| <u>1</u> | 1. Names and addresses of the owners, planner, architect, landscape architect Engineer and surveyor. |
| <u>3</u> | 2. A General Location and Vicinity Map (plat sheet). Please indicate the relationship of the proposed project site to surrounding existing land uses, zonings, future land uses, community facilities, major streets, utilities and any other principal buildings or physical features in and adjoining the subject property. These features shall be indicated for a distance of three hundred (300) feet from the outside boundaries of the subject property. Indicate all names and locations of adjoining subdivisions, development projects, unplatted properties, and streets within unincorporated Lee County. |
| <u>2</u> | 3. Certified Boundary Survey, completed within the last 6 months, meeting the Minimum Technical Standards as set forth in Chapter 5J-17, Florida Administrative Code. |

EXISTING PROPERTY CONDITIONS

Sheet # of submitted plans:

- | | |
|-------------|--|
| <u>2</u> | 1. Acreage of land within property. |
| <u>2</u> | 2. Boundary lines of the project and their bearings and distances. |
| <u>2, 4</u> | 3. Existing and proposed easements and their locations, widths and distance, as well as existing structures. |
| <u>2</u> | 4. Streets and waterways on and adjacent to the project, their names, widths and other dimensions as may be required. |
| <u>2</u> | 5. The location of all existing utilities connections available to the property site. |
| <u>NA</u> | 6. Tree Survey: The location, quantity, diameter/caliper, botanical and common name, and native status of all heritage trees and other existing trees with a caliper of two inches or greater, and whether they are proposed to be preserved or removed. Trees to be removed, if any, shall be indicated on a separate sheet. Reference 5.2.6 of the City's Land Development Regulations. The City is a designated "Tree City" and tree retention is encouraged. |

Submitted Separately

- | | |
|----------|---|
| <u>2</u> | 7. Environmental Site Survey - see the City's guidelines for conducting an environmental survey |
| <u>2</u> | 8. Flood elevation data and flood zone boundary lines delineated, if applicable. |
| <u>2</u> | 9. Any other significant existing features, as may be required by the Director. |

DEVELOPMENT PLANS

Sheet # of submitted plans:	The Development Plan should be viewed as a conceptual plan and not construction drawings or a site plan. A high level detailed site plan with detailed information not needed will be rejected at submittal. The Development Plan shall show the following information, as applicable to the type of project being proposed, including the proposed dimensions, size, location and arrangement of the following.
<u>4</u>	1. Name of project, north arrow, date and scale.
<u>NA</u>	2. Elevations, (drawing of front, sides, and rear faces of buildings), and use of all proposed buildings and structures.
<u>NA</u>	3. Internal and peripheral landscaping locations showing landscape area sizes and overall dimensions of the various planting areas, providing calculations per Article 5.2.
<u>4</u>	4. Location of curb cuts, driveways, access roads, alleys, and parking areas indicating the number of spaces and all dimensions.
<u>NA</u>	5. Location of existing and proposed pedestrian walks, malls, yards, and open areas.
<u>NA</u>	6. Location, number, dimensions, character and orientation of all existing and proposed signs.
<u>NA</u>	7. Location and heights of all proposed buffers, fences, screens, and walls.
<u>NA</u>	8. Location of all existing and proposed buildings and structures with setback distances from the property lines and roadways.
<u>2</u>	9. Location of all known existing and proposed water, sewer and irrigation mains including the point of connection to the existing system and buildings, if applicable, including: <ul style="list-style-type: none"> a) Estimate of the average daily flow for potable water. b) Estimate of the average daily flow of wastewater c) Estimate of the average daily flow for irrigation water.
<u>2, 4</u>	10. Location of all known existing and proposed easements and /or right of way.
<u>NA</u>	11. Location of proposed outdoor lighting, showing direction, height and type.
<u>NA</u>	12. An exhibit providing the peak hour trip distribution at the project entrance and adjacent local streets out to a collector.
<u>NA</u>	13. Location and character of all outside waste disposal facilities and existing or proposed appropriate screening.
<u>NA</u>	14. Phasing Plan: Where a project will be developed in phases, a Phasing Plan shall be presented for review of the entire project. Proposed development phases shall be numbered in sequence, and shall indicate the density for residential and/or floor area for non-residential uses, as applicable, for each phase. The phasing plan shall identify size, location, sequence and timing of the various phases of the development.

ADDITIONAL INFORMATION

Sheet # of
submitted
plans:

Included in
Covenant

1. **Landscape Maintenance:**

The proposed method of assuring the provision and permanent maintenance of areas required for landscaping, screening, and common uses, including a proposed statement of such assurance. The coordinated development of the site shall be compatible with the surrounding area.

NA

2. **Maintenance Assurance:**

The proposed method of assuring the perpetual ownership and maintenance of areas within the project that area to be used for open space, recreation or other quasi-public purposes, including a detailed statement of such assurance, including covenants, agreements or other specific documents as required.

To be submitted under
separate cover.

3. **If seeking Subdivision approval; Covenants:**

Copies of proposed restriction or protective covenants, if any.

NA

4. **Economics:**

The Commission or City Council, as applicable, may also require that the applicant provide additional supporting data, such as economic justification, financing, and construction scheduling, topographic data or similar information when deemed necessary for project review.

NA

5. **Vacation of Plat**

In the case of vacation of plats submitted in conjunction with a PDP, the following additional information shall be required:

- a. Affidavits of city and county tax collectors stating that all city and county taxes levied against land covered by the portion of the plat of which vacation is sought have been paid;
- b. Sketches and descriptions; and
- c. Letter of no objection from the following utilities:
 - i. Lee County Electric Cooperative, Inc (LCEC)
 - ii. Century Link Telephone Company
 - iii. Comcast Cable Company

SUBDIVISION, PER FLORIDA STATUTES, CHAPTER 177 – IF APPLICABLE

Sheet # of submitted plans	The Subdivision Plan shall show the following information, as applicable to the type of project being proposed, including the proposed dimensions, size, location and arrangement of the following with accurate dimensions to the nearest one-hundredth of a foot. If flexibility is requested for property lines prior to Plat recording, this request must be requested in the Letter of Intent (LOI).
<u>2</u>	1. Contours at an interval of not greater than one foot.
<u>2</u>	2. Access roads and their relationship to existing and proposed streets, alleys and other public ways.
<u>NA</u>	3. Setback lines, permanent open space, recreation areas, separation strips, existing and proposed landscape areas and general land use activity areas.
<u>NA</u>	4. Location of areas and their acreages, if any, to be reserved or dedicated for public parks, playgrounds, schools, or other public uses, including bikeways or walks.
<u>2</u>	5. Proposed lot numbers, lot lines, lot dimensions, lot areas, lot descriptions, lot locations, minimum yard requirements, and any other appropriate data and information for areas or parcels within the project property lines which have been designated for subdivision for any purpose or use.
<u>2</u>	6. Utility locations on and adjacent to the project showing proposed dimensions and connections to existing utility systems.
<u>2</u>	7. All dimensions, angles, bearings and similar data on the plan shall be tied to primary control points approved by the City Engineer. The location and description of said control points shall be given.
<u>2</u>	8. Approximate location of proposed and existing surface water management system components including treatment, storage, conveyance, and discharge locations.
<u>2</u>	9. Project boundary lines, right-of-way lines of streets, waterways, easements and other rights-of-way. Bearings or deflection angles, radii, arcs and central angles of all curves with dimensions to the nearest minute shall be provided for the center line of all streets and easements. Block corner radii dimensions shall also be shown.
<u>2</u>	10. Name of each street, waterway, easement or other right-of-way and the designation of all buildings, parking areas, access roads, permanent open spaces, recreation areas, separation strips, landscaped areas, dedication or reserved areas, and other land use activity areas by name, use, purpose or other appropriate method as well as by width, length, land area or floor area devoted to such use or purpose.
<u>1</u>	11. Certification of title and dedication, on plat, showing that the applicant is the owner and a statement by such owner dedicating streets, rights-of-way and any other sites for public use, if any.
<u>NA</u>	12. Certification by the City Engineer, on plat, that a surety bond, certified check or other guarantee has been posted with the City in sufficient amount to assure completion of all such required site improvements.
<u> </u>	13. Certificate of approval for recording, on plat, suitable to be signed by the Mayor as applicable, to indicate that the plan has been approved for recording.
<u> </u>	14. Any other appropriate certification required by the Governing Body or Necessary to comply with Florida Statutes, Chapter 177.



**43 Barkley Circle, Suite 200
Fort Myers, FL 33907
Phone 239-433-4231 Fax 239-433-9632
www.tdmcivilengineering.com
Certificate of Authorization # 29086**

March 5, 2016

Development Services Manager
Development Services Group
City of Cape Coral
1015 Cultural Park Boulevard
Cape Coral, FL 33990

Project Name: Shamrock Pines

STRAP # 19-43-23-C4-00003.0340

SUBJECT: Letter of Intent for a PDP with Subdivision, 3333 Old Burnt Store Road N.

Dear Development Services Manager,

The applicants, Kevin McGrath, Sr., Gayle McGrath, Kevin McGrath, Jr., and Michael McGrath own a 9.52-acre parcel located at 3333 Old Burnt Store Road N. The parcel is zoned Agricultural (A) and has a Future Land Use designation of Mixed Use (MX). The parcel is located in the Urban Services Reserve Area. Policy 1.15.f of the Comprehensive Plan states that all developments greater than one (1) acre in size with the Mixed Use Future Land Use classification are required to be reviewed through the Planned Development Project (PDP) process. In addition, properties in the Urban Services Reserve Area less than three (3) acres in size are limited to a single use.

The applicants desire to subdivide the 9.52-acre parcel into three (3) lots for single-family/agricultural use with a common tract for ingress/egress. The legal right-of-way for Sand Road, a private road, is located north of the subject parcel. However, Sand Road is physically located on the subject property. Being a private road, the applicants are providing an ingress/egress easement for Sand Road on the subject property. In addition, there are overhead powerlines located on the property (east/west). TDM is working with Keith Lanman with LCEC to determine the feasibility of relocating the existing powerlines. As information is forthcoming, TDM will submit the plans to City staff.

A pre-advisory meeting was held with City staff on Nov. 9, 2015. It is our understanding that a PDP with Subdivision Application and a Limited Review Site Development Plan showing a master drainage system are required for development. In addition, an Application for Plat Review will also be required. A draft copy of the Declaration of Covenants, Easements and Restrictions will be provided under separate cover.

It should be noted that a small waterbody is located on site. It is the intention of the property owners to re-design the contours of the waterbody, enlarging it. A 20' wide maintenance easement will be provided around the lake. However, the Site Plans can only illustrate the approximate configuration and associated easement at this time.

Please feel free to contact this office if you have any questions.

Sincerely,

TDM CONSULTING, INC.



Veronica Martin
Senior Planner

Shamrock Pines PDP / (PDP 16-0004)
City of Cape Coral Planning Division
Project Staff Report
Hearing Examiner Date – May 2, 2017

APPLICATION SUMMARY

Applicant: Kevin and Gayle McGrath

Request: A PDP to subdivide a 9.53 acre site into three lots. The lots would be used for single-family residences. The entire property is undeveloped except for a small pond on the eastern portion of the site.

Location: The site is located at 3333 Old Burnt Store Road North.

RECOMMENDATION

Staff recommends approval of the application's PDP request with conditions per Attachment "A".

DESCRIPTION OF SUBJECT PROPERTY

The subject property is an undeveloped, un-platted 9.53 acre site in the northwestern quadrant of Cape Coral. The site has frontage along Old Burnt Store Road. Sand Road, a private, unimproved road, runs along the northern property line. The surrounding area in all directions is a combination of undeveloped properties¹ and single family homes. The Future Land Use designation of the site is Mixed-Use (MX) and the zoning designation is Agricultural (A). Properties to the north and south have a Future Land Use designation of Low-Density Residential II (LDRII) while properties to the west have a Future Land Use Designation of Single-Family/Multi-Family (SM). Properties to the north and south have a zoning designation of Residential Estate (RE) while properties to the west have a zoning designation of Single-Family Residential (R-1B). The site is in the Urban Services Reserve Area and there are no centralized utilities available to the site.

NEED FOR THE PDP

The City of Cape Coral Land Use and Development Regulations (LUDR) Article Four, Section 1.2.A.1 states the following:

"The subdivision of land within the City of Cape Coral, except as provided in § 4.2 of this article, shall be permitted only within approved developments of regional impact (DRIs) or planned development projects (PDPs)."

The applicant is proposing to subdivide the site into three parcels which can only be accomplished through a PDP.

¹ Properties to the north, east, and south are generally five acres or larger.

DESCRIPTION OF THE PROJECT

The applicant requests a PDP to subdivide the 9.63 acre site into three parcels that range in size from 2.28 acres to 2.48 acres. The subdivision will also include two conservation tracts to protect on-site wetland areas. An existing lake on the eastern portion of the site will remain to accommodate storm and surface water drainage.

ANALYSIS OF THE SUBDIVISION REQUEST

The Planning Division has reviewed this application based on the City Land Use and Development Regulations (LUDR), Section 2.7.11, the Agricultural District, the Comprehensive Plan's Mixed Use (MX) Future Land Use designation and the standards in Section 4.1, which covers Subdivisions. Staff offers the following analysis for consideration:

LUDR, Section 4.1

1. This section requires that all subdivisions shall only be approved through a Development of Regional Impact (DRI) or a PDP.

The applicant is requesting subdivision through PDP, therefore, this standard is met.

2. This section also requires that all development, except for uses allowed in the Single-Family Residential (R-1B) district, in the urban services reserve area must be approved through a PDP.

The site is in the Agricultural district and the Urban Service Reserve area and the applicant is undergoing review and approval through a PDP, therefore, this standard is met.

LUDR, Section 2.7.11

This section states the purpose, intent and the permitted uses for the Agricultural zoning district. The applicant states that the subdivision is for residential and agricultural uses.

The Agricultural district allows single-family residential uses and a variety of agricultural/farming uses, therefore, this standard is met.

Mixed Use (MX) Future Land Use Designation

1. The MX Future Land Use designation allows a maximum density of 4.4 units per acre

The applicant proposes three lots that are over two acres in size. The applicant has indicated each lot will support a single-family home. The maximum density of 4.4 units per acre will not be exceeded, therefore, this standard is met.

2. The MX Future Land Use designation requires that development of property greater than one acre undergo review and approval through the PDP process.

The applicant has submitted a PDP for the approval of the single-family subdivision.

3. Mixed Use properties within the Urban Services Reserve Area require three acres to develop a mixed use project.

The three lots within the PDP are less than three acres in size, therefore, the lots will not be required to develop with more than one use.

GENERAL STANDARDS AND REQUIREMENTS FOR PDPS

This project was also evaluated for compliance with general standards and requirements found in LUDR, Section 4.2 that is provided below.

- A. *Environmental control standards:* No construction is associated with this PDP. An environmental survey was submitted to the City for review. Similar environmental surveys will be submitted when the tracts are developed. As a result, this project complies with this standard.
- B. *Maintenance of improvements:* No public improvements are proposed within this PDP. The applicant will be improving an on-site lake for drainage and water retention for future residences and agricultural uses. As a result, this project complies with this standard.
- C. *Consistency with Comprehensive Plan:* This project is consistent with several policies and goals contained within the Comprehensive Plan that are discussed in greater detail elsewhere in this report.
- D. *Financial Responsibility:* This standard is not applicable as the owner will not be required to provide a statement of financial responsibility for this project.
- E. *Dimensional requirements:* No new construction is proposed as part of the PDP. As a result, this standard is not applicable.
- F. *Maximum density:* This project does not proposed a density greater than what is allowed in the Mixed Use (MX) future use land use designation or the Agricultural (A) zoning district. As a result, this standard is met.
- G. *Minimum parcel size:* The project is located in the City's Urban Services Reserve Area that requires a minimum of three acres for projects other than the development of single-family homes, or restricts uses to those that generate no more than 1,320 gallons of wastewater per acre per day. While this PDP does not propose any development, the applicant has indicated that future uses will be single-family residences. As a result, this standard is met.
- H. *Time limitation:* The owner will have two years from the effective date of the PDP to record a subdivision plat. The applicant will complete substantial construction once the subdivision plat is recorded.

- I. *Ownership requirements:* The applicant seeking the PDP owns the property. As a result, the project complies with this standard.
- J. *Special exceptions:* There are no special exception uses proposed within this PDP. As a result, this project is not applicable with this standard.
- K. *Deviations:* No deviations are sought with this PDP. As a result, this standard is not applicable.
- L. *Underground Utilities:* No construction is proposed with this PDP, however, utilities are not available to this site. Once utilities are available they will be located underground. As a result, this standard is not applicable.

CURRENCY REVIEW

The site does not currently have access to utilities, therefore the project will not use city services for solid waste, drainage, potable water, and wastewater. According to Policy 1.1.1 of the Transportation Element of the City's Comprehensive Plan, Burnt Store Road has a Level of Service Standard (LOS) of E. The small number of trips generated by this use will not affect the LOS of Burnt Store Road.

CONSISTENCY WITH THE COMPREHENSIVE PLAN

A list of Comprehensive Plan objectives and policies applicable to this request appears in Exhibit "C." This project was specifically reviewed for consistency with the following policies:

Future Land Use Element

Policy 1.15.f. Future land use classifications. The current Agricultural zoning of the subject parcel is consistent with the Mixed Use Future Land Use Classification of this property. As discussed previously in the report, the site will be developed with single-family homes.

SUMMARY OF THE POSITIVE AND NEGATIVE ASPECTS OF THE PROJECT

POSITIVE ASPECTS OF THE PROJECT
<ul style="list-style-type: none">• The residential subdivision will be in harmony with the surrounding area.• The site is large enough to support both residential.• The sites future land use and the zoning are compatible with each other.
NEGATIVE ASPECTS OF THE PROJECT
<ul style="list-style-type: none">• NA
MITIGATING MEASURES
<ul style="list-style-type: none">• N/A

PROJECT RECOMMENDATIONS

Staff finds that this PDP is consistent with the City LUDRs and the Comprehensive Plan. Planning staff recommends **approval**, subject to the condition outlined below.

- 1) The applicant will be required to dedicate all conservation tracts and ingress/egress easements shown on Sheet 2 of 2 of the applicant's submitted plans, dated July 19, 2016, bearing a revision date of January 1, 2017 as prepared by TDM Consulting, Inc.

PUBLIC NOTIFICATION

This case will be publicly noticed as required by LUDR, Section 8.3 as further described below.

Publication: A legal ad will be prepared and sent to the New Press for scheduled publication 10 days prior to any public hearing.

Written notice: Property owners located within 500 feet of the project area will be mailed letters 10 days prior to any public hearing.

Posting of a Sign: Signs will be posted on the subject property along Burnt Store Road 10 days prior to any public hearing.

Received
Electronically
Mar. 10, 2017
South District

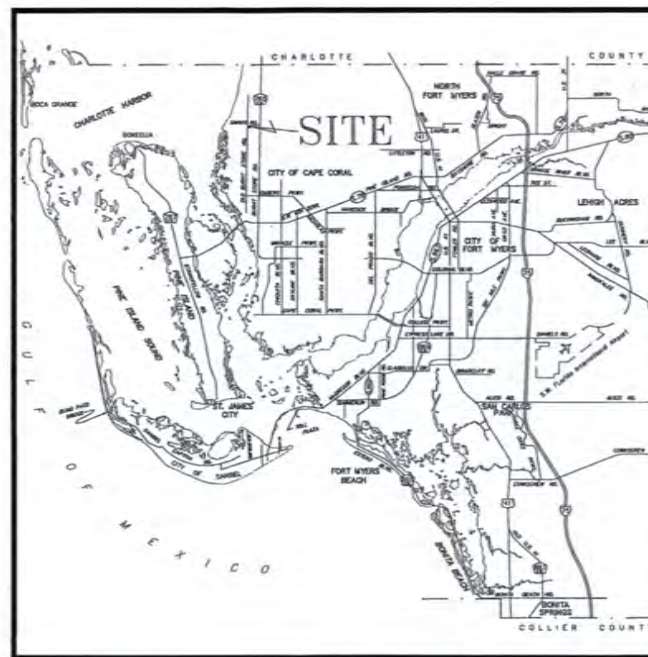


SITE CONSTRUCTION PLANS
FOR
SHAMROCK PINES
CAPE CORAL, FLORIDA
SECTION 19, TOWNSHIP 43S, RANGE 23E
STRAP: 19-43-23-C4-00003.0340

PLAN INDEX

COVER
BOUNDARY & TOPOGRAPHIC SURVEY
AERIAL LOCATION MAP
MASTER SITE PLAN
PAVING, GRADING & DRAINAGE PLAN
CROSS-SECTIONS & HYDROLOGY MAP
STORMWATER POLLUTION PREVENTION PLAN

1
2
3
4
5
6
7



LOCATION SKETCH
N.T.S.

OWNER/DEVELOPER

KEVIN MCGRATH ET. AL.
1751 NE Pine Island Rd #155
PMB-232
Cape Coral, FL 33909
Phone: (239) 872-1836

ENGINEER



43 Barkley Circle, Suite 200
Fort Myers, FL 33907
Phone: (239) 433-4231
Fax: (239) 433-9832
Email: dean@tdmconsulting.com
www.tdmcivilengineering.com
Certificate of Authorization # 29085



KEVIN MCGRATH
FLORIDA P.E. #52022
THIS SEAL NOT VALID UNTIL 12/31/2017

Case No. 2017 - 8-13 am by dmarco

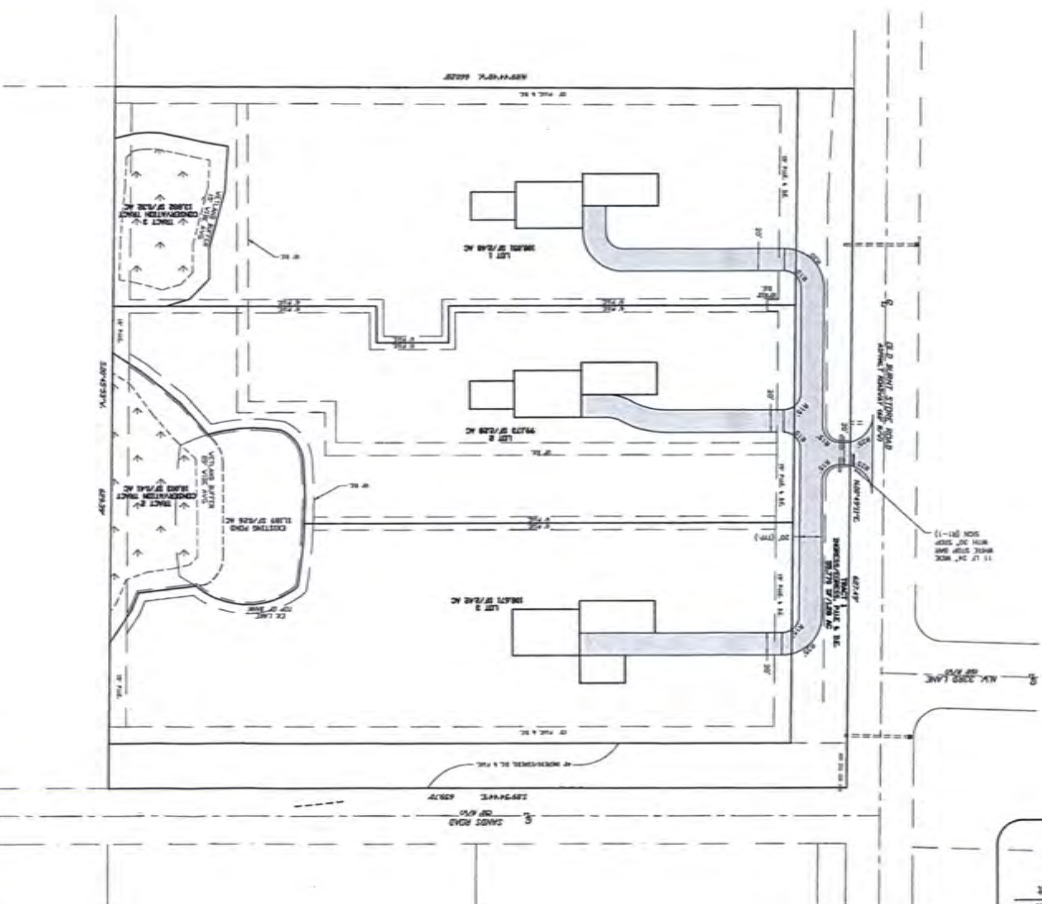
Permit Number
0345849-002 EI
South District
Fort Myers

[illegible]

STREET ADDRESS
111 OLD BLUNT STORE RD N
WFL CORAL FL 33993
TRAP NUMBER
1-43-22-04-000112040

57	SQUARE FEET	
58	NOTES	
59	BOARD OF WORK	
60	PUBLIC UTILITY EXCAVATION	
61	DRAINAGE DISTRICT	
62	PROPOSED FENCE	
63	NOTES (2) (LATCHES AND/OR LOCKS)	
64	END OF PARAGRAPH	
65	BOARD OF WORK	
66	UNKNOWN FIELD	

Received
Electronically
Mar. 10, 2017
South District



WENT WALKED WITHIN OFT FRODO BAGGINS AND GARY

CMI Engineering

CHAMBRACK PINES

MASTER SITE PLAN

DATE	REVISIONS	DATE
1	REVISED PER CEC COMMENTS	REVISION BY
2	REVISED PER CEC COMMENTS	TIME
3	REVISED PER RFP COMMENTS	DATE IN
4	REVISED PER RFP COMMENTS	REV
5	REVISED PER CLIENT COMMENTS	CHECKED BY
		TIME
		APPROVED BY
		TIME

(Drawing last revision only - 01/24/2014)

4 of 7



TDM
CIVIL ENGINEERING
CONSULTING, INC.

43 Bunkley Circle, Suite 200
Fort Worth, TX 76107
Phone (204) 433-4231
Fax (204) 433-0632
Web: AutoLink.com 2006

data@tdmengineering.com
www.tdmengineering.com

CRF Engineering
and
Paving



STRAP NUMBER
19-42-23-04-00000004

STREET ADDRESS
5335 OLD MIAMI ROAD RD N
DADE COUNTY, FL 33055

FLOOD ZONE

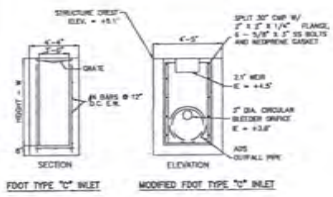
THE PROJECT IS LOCATED IN FLOOD ZONE "X" EL. 7' AND "Y" AS SHOWN
THIS INFORMATION WAS TAKEN FROM FLOOD INSURANCE RATE
MAP 17000S 0223-F, REVISION DATE 8-20-09.

DRAINAGE PIPE SCHEDULE

PIPE SCHEDULE
P-1 48" OF 12" A.D.S. W/ 6" W.E.S. (30 LF TOTAL)
WE = +1.5', DE = +3.5'
P-2 47' OF 12" A.D.S. W/ 6" W.E.S. (31 LF TOTAL)
WE = +1.5', DE = +3.5'

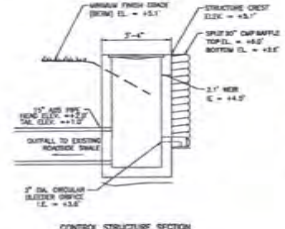
DRAINAGE STRUCTURE SCHEDULE

INLET INLET ORATE INLET
D-1 C (NOB) CONTROL STRUCTURE (SEE DETAIL THIS SHEET)
D-2 C (NOB) CONTROL STRUCTURE (SEE DETAIL THIS SHEET)



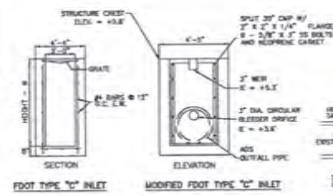
FOOT TYPE "C" INLET

MODIFIED FOOT TYPE "C" INLET



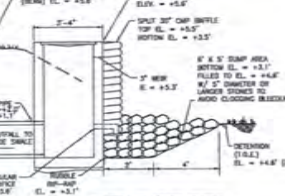
CONTROL STRUCTURE SECTION

CONTROL STRUCTURE DETAIL (WETLAND) D-1
N.T.S. FOOT INDEX 232



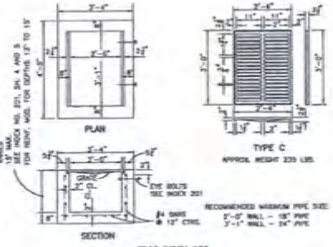
FOOT TYPE "C" INLET

MODIFIED FOOT TYPE "C" INLET



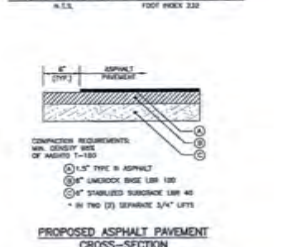
CONTROL STRUCTURE SECTION

CONTROL STRUCTURE DETAIL (PREVIOUSLY ALTERED WETLAND) D-2
N.T.S. FOOT INDEX 232



FOOT TYPE "C" INLET

MODIFIED FOOT TYPE "C" INLET

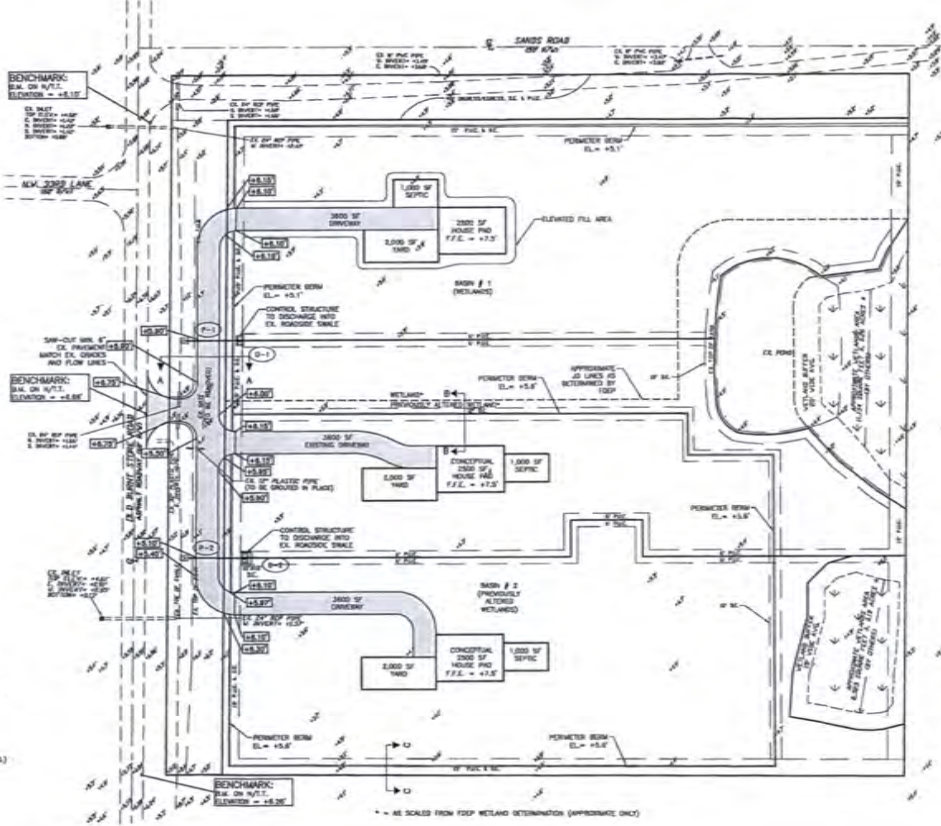


CONTROL STRUCTURE SECTION

PROPOSED ASPHALT PAVEMENT CROSS-SECTION
N.T.S.

LEGEND

- EXISTING DRIVE - SPOT
- PROPOSED STORMWATER CATCH BASIN
- PROPOSED INTER-AND SECTION
- NEW REINFORCED CONCRETE PIPE
- DRAINAGE PIPE NUMBER
- INTENDED DIRECTION OF STORMWATER FLOW
- EXISTING CATCH BASIN
- EXISTING REINFORCED CONCRETE PIPE
- RIGHT OF WAY
- PUBLIC UTILITY EXISTENCE
- DRAINAGE EXISTENCE
- EXISTING
- EXISTING FEET
- EXISTING ELEVATION
- T.O.S. TOP OF BANK
- T.O.S. TOP OF SLOPE
- T.O.S. TOP OF WALKER
- D.O.A. DRY DETENTION AREA
- L.A.C. LAKE WATERPROMPT EXISTENCE



1" = 50'

DATE	REVISION
10/10/2017	1. INITIAL DESIGN
10/10/2017	2. REVISED PER COMMENTS
10/10/2017	3. REVISED PER COMMENTS
10/10/2017	4. REVISED PER COMMENTS
10/10/2017	5. REVISED PER COMMENTS
10/10/2017	6. REVISED PER COMMENTS
10/10/2017	7. REVISED PER COMMENTS
10/10/2017	8. REVISED PER COMMENTS
10/10/2017	9. REVISED PER COMMENTS
10/10/2017	10. REVISED PER COMMENTS

**SHAMROCK PINES
PAVING, GRADING & DRAINAGE
PLAN**

CDM Engineering and Planning
4333 Bunker Creek, Suite 200
Fort Myers, FL 33907
Phone: (239) 434-4331
www.cdmengineering.com
CDM Engineering and Planning
4333 Bunker Creek, Suite 200
Fort Myers, FL 33907
Phone: (239) 434-4331
www.cdmengineering.com

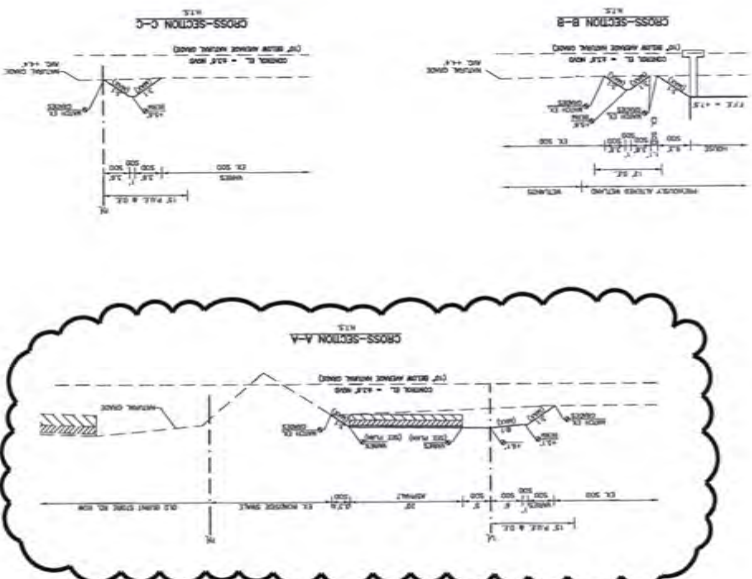
Florida Department of Environmental Protection
South District
Permit Number 0345849-002 EI
Mar. 10, 2017
South District

[illegible]

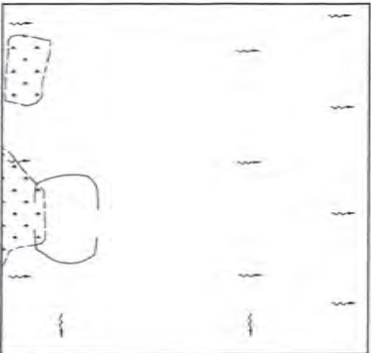
Received
Electronically
Mar. 10, 2017
South District

530

STREET ADDRESS



EXISTING HYDROLOGY MAP



LEFT VIAL IS WITHOUT SUBSTRATE SEAL, STOPPER, AND CAP



DATE _____



43 Barkley Circle, Suite 200
Fort Myers, FL 33907
Phone: (239) 433-4231
Fax: (239) 433-0032
Cert. of Authorization # 27906

Civil Engineering
and
Planning

SHAMROCK PINES
CROSS SECTIONS &
HYDROLOGY MAP

[illegible]

STRAP NUMBER
19-43-23-01-00001.0140

STREET ADDRESS
3301 OLD BAYVIEW DRIVE RD N
DAVE CORAL, FL 33063



Received
Electronically
Mar. 10, 2017
South District

CONSTRUCTION POLLUTION PREVENTION PLAN

1. Silt fence shall be properly installed at the perimeter of the limits of disturbance prior to construction.
2. Hay bales and silt fence check dam barriers shall be installed in all proposed swales at 500' intervals within swale construction and shall be maintained until final stabilization.
3. Clearing and grubbing debris shall be removed and properly disposed of by contractor.
4. Topsoil stock piles and other disturbed areas where construction activity ceases for more than seven (7) days shall be stabilized with temporary seeding and mulch within 72 hours from the date of last construction activity in such area.
5. Proposed swales are to be seeded or seeded immediately after construction for the appropriate cover species.
6. All waste material will be collected and stored in a locked area commencing in accordance with Lee County Solid Waste Standards. Said dumpster will be emptied a minimum of once a week or more often if necessary.
7. All hazardous or toxic material will be properly contained and disposed of in accordance with appropriate state and federal regulations.
8. This site is to be served by portable sanitary facilities during construction. Post construction will be served by connection to municipal sewerage.
9. The effectiveness of the stormwater pollution prevention plan and the temporary erosion/sediment controls shall be checked daily during construction by contractor or a qualified representative. If state of Florida water quality standards are not met, correction to the problem shall be made as soon as practical.
10. All pollution prevention measures shall be maintained in good working order. Repairs will be made immediately, but not longer than twenty-four hours after discovery.
11. Built-up sediment will be removed from silt fence when it reaches one-third (1/3) of the height of the fence.
12. Silt fences will be inspected for depth of sediment, seals to insure proper attachment to poles, and to ensure posts are securely placed.
13. Contractor shall be responsible for all hazardous material spills or pollutants on site. Said spills shall be cleaned up as soon as they occur.
14. Stormwater pollution prevention shall be maintained during construction. If additional temporary erosion/sediment controls are shown on the construction plan, they are necessary to maintain compliance with state of Florida water quality standards. Such controls shall be installed, inspected, maintained and installed as required by engineer/contractor or local and state regulations. A schedule shall be submitted showing daily and weekly maintenance activities. Sediment, silt, and other pollutants shall be removed from the construction pollution prevention plan as shown on this sheet and sheet 2 and verify that all concerned parties are complying with them.
15. All construction entrances shall be clear of all vegetation, roots and other obstructions. A sediment silt fence shall be placed to improve stability and prevent maintenance. Gravel shall then be placed over the sediment a minimum of 1" thick.
16. All bare areas shall be seeded as soon as practical. Temporary seeding of soil shall be maintained during construction as necessary to minimize the transport of floating soils.

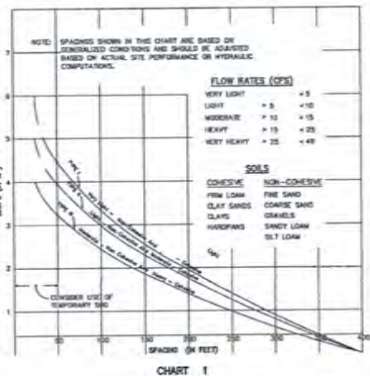
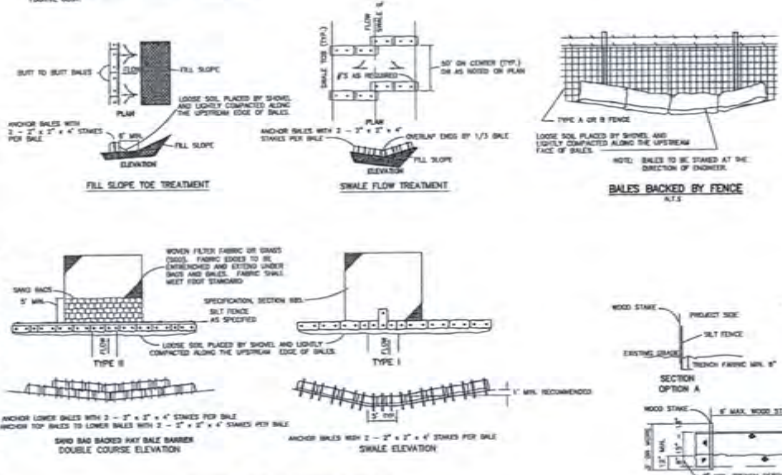


CHART 1
RECOMMENDED SPACING FOR TYPE I AND TYPE II HAY BALE BARRIERS AND TYPE II SILT FENCES.

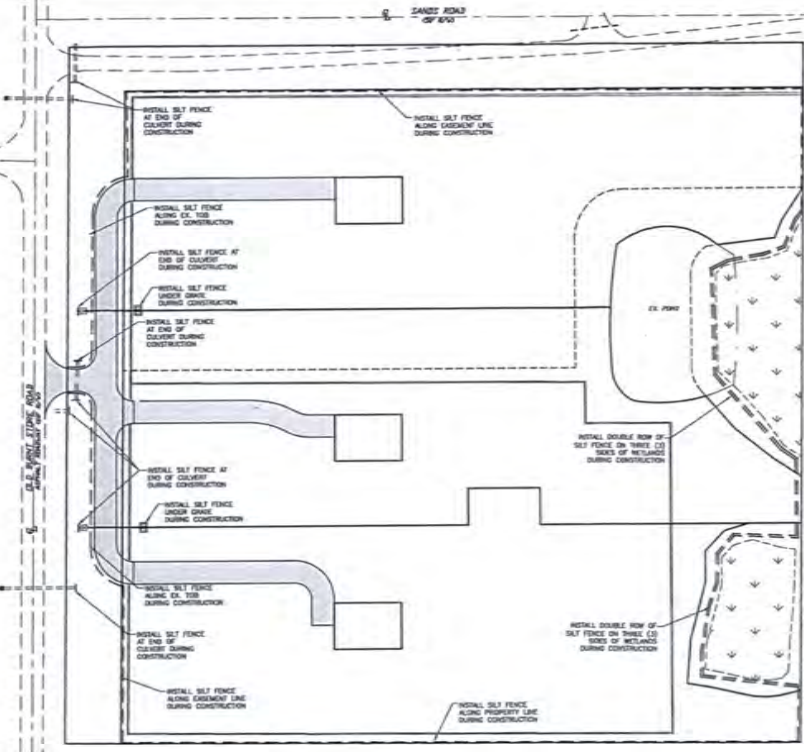


TYPICAL HAY BALE BARRIER DETAILS
N.T.S.

THE USE OF TYPE I AND II HAY BALE BARRIERS SHOULD BE LIMITED TO THE CONDITIONS OUTLINED IN CHART 1, SHEET 1 OF 3, F.D.O.D. STANDARD SPEC. NO. 100.

TYPICAL SILT FENCE DETAIL
N.T.S.

- LEGEND
- CON INTERIOR END SECTION
 - SILT FENCE
 - LINEAR FENCE
 - EX. EXISTING
 - EL. ELEVATION
 - INSET



PROTECTION AROUND INLETS OR SIMILAR STRUCTURES
N.T.S.



TYPE II SILT FENCE PROTECTION AROUND DITCH BOTTOM INLETS

TYPE II SILT FENCE

NOTE: DO NOT DISPLAY IN SUCH A MANNER THAT SILT FENCES WILL ACT AS A DAM ACROSS PERMANENT FLOWING HYDROLOGICAL. SILT FENCES ARE TO BE USED AT UPSTREAM LOCATIONS. TURBIDITY BARRIERS ARE TO BE USED AT DOWNSTREAM LOCATIONS OF WATER.

SILT FENCE APPLICATIONS
N.T.S.

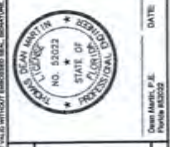
DATE	REVISION	BY	CHKD	APP'D
1	DATE	DESIGNED FOR ECE COMMENTS	DATE	
2	DATE	DESIGNED FOR ECE COMMENTS	DATE	
3	DATE	DESIGNED FOR ECE COMMENTS	DATE	
4	DATE	DESIGNED FOR ECE COMMENTS	DATE	
5	DATE	DESIGNED FOR ECE COMMENTS	DATE	
6	DATE	DESIGNED FOR ECE COMMENTS	DATE	
7	DATE	DESIGNED FOR ECE COMMENTS	DATE	
8	DATE	DESIGNED FOR ECE COMMENTS	DATE	
9	DATE	DESIGNED FOR ECE COMMENTS	DATE	
10	DATE	DESIGNED FOR ECE COMMENTS	DATE	

SHAMROCK PINES STORMWATER POLLUTION PREVENTION PLAN

City Engineering
Planning

TDM
CONSULTING

4800 S. 11th Ave., Suite 200
Fort Myers, FL 33907
Phone: (239) 433-4331
Fax: (239) 433-4332
www.tdmconsulting.com



NOTICE OF PUBLIC HEARING

CASE NUMBER: PDP16-0004

REQUEST: A PDP to subdivide a 9.53 acre site into three lots. The lots would be used for single-family residences. The entire property is undeveloped except for a small pond on the eastern portion of the site.

LOCATION: The site is located at 3333 Old Burnt Store Road North.

CAPE CORAL STAFF CONTACT: Chad Boyko, Principal Planner, 239-573-3162, cboyko@capecoral.net

PROPERTY OWNER(S): Kevin and Gayle McGrath

AUTHORIZED REPRESENTATIVE: Veronica Martin, TDM Consulting, Inc.

UPCOMING PUBLIC HEARING: Notice is hereby given that the City of Cape Coral Hearing Examiner will hold a public hearing at 9:00 AM on Tuesday, May 2nd, 2017 on the above mentioned case. The public hearing will be held in the City of Cape Coral Council Chambers, 1015 Cultural Park Boulevard, Cape Coral, FL.

All interested parties are invited to appear and be heard. All materials presented before the Hearing Examiner will become a permanent part of the record. The public hearing may be continued to a time and date certain by announcement at this public hearing without any further published notice. Copies of the staff report will be available 5 days prior to the hearing. The file can be reviewed at the Cape Coral Community Development Department, Planning Division, 1015 Cultural Park Blvd., Cape Coral, FL.

After Hearing Examiner has made a written recommendation, the case will be scheduled for a public hearing before the City Council who will review the recommendation and make a final decision. You will receive another public hearing notice when this case is scheduled for a City Council hearing.

DETAILED INFORMATION: The case report and colored maps for this application are available at the City of Cape Coral website, www.capecoral.net/publichearing. (Click on 'Public Hearing Information', use the case number referenced above to access the information); or, at the Planning Division counter at City Hall, between the hours of 7:30 AM and 4:30 PM.

HOW TO CONTACT: Any person may appear at the public hearing and be heard, subject to proper rules of conduct. You are allowed sufficient time to write or appear at the public hearing to voice your objections or approval. Written comments filed with the Director will be entered into the record. Please reference the case number above within your correspondence and mail to: Department of Community Development, Planning Division, P.O. Box 150027, Cape Coral, FL 33915-0027. The hearings may be continued from time to time as necessary.

ADA PROVISIONS: In accordance with the Americans With Disabilities Act, persons needing a special accommodation to participate in this proceeding should contact the Human Resources Department whose office is located at Cape Coral City Hall, 1015 Cultural Park Boulevard, Cape Coral, Florida; telephone 1-239-574-0530 for assistance; if hearing impaired, telephone the Florida Relay Service Numbers, 1-800-955-8771 (TDD) or 1-800-955-8770 (v) for assistance.

by order of
Rebecca van Deutekom, MMC
City Clerk
REF # PDP16-0004
AD# 2087301 Apr. 22, 2017

Department of Community Development
Planning Division

AFFIDAVIT

IN RE: APPLICATION OF: Shamrock Pines

APPLICATION NO: PDP16-0004

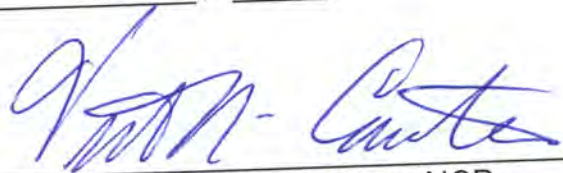
STATE OF FLORIDA)
) §
COUNTY OF LEE)

I, Vincent A. Cautero, AICP having first been duly sworn according to law, state on my oath the following:

That I am the Director of the Department of Community Development and responsible in performing duties as required for the City of Cape Coral.

That pursuant to City of Cape Coral Code. Section 8.3.2A and Section 8.11.3.A all required written notice and publication has been provided. Also, posting of a sign has been done when applicable per Section 8.3.2A.

DATED this _____ day of _____, 2017.



Vincent A. Cautero, AICP

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 24th day of April, 2017, by Vincent A. Cautero, AICP, who is personally known to me and who did not take an oath.

Exp. Date 12/16/20 Commission # GG030474



Elisabeth A. Delgado
Signature of Notary Public

Elisabeth A. Delgado
Print Name of Notary Public







CITY OF CAPE CORAL

Department of
Community Development
Planning Division

ZONING MAP 500 Proximity Boundary

Case No. PDP16-0004

Legend

-  Subject Parcel
-  500' Boundary
-  A
-  R-1B
-  RD
-  RE

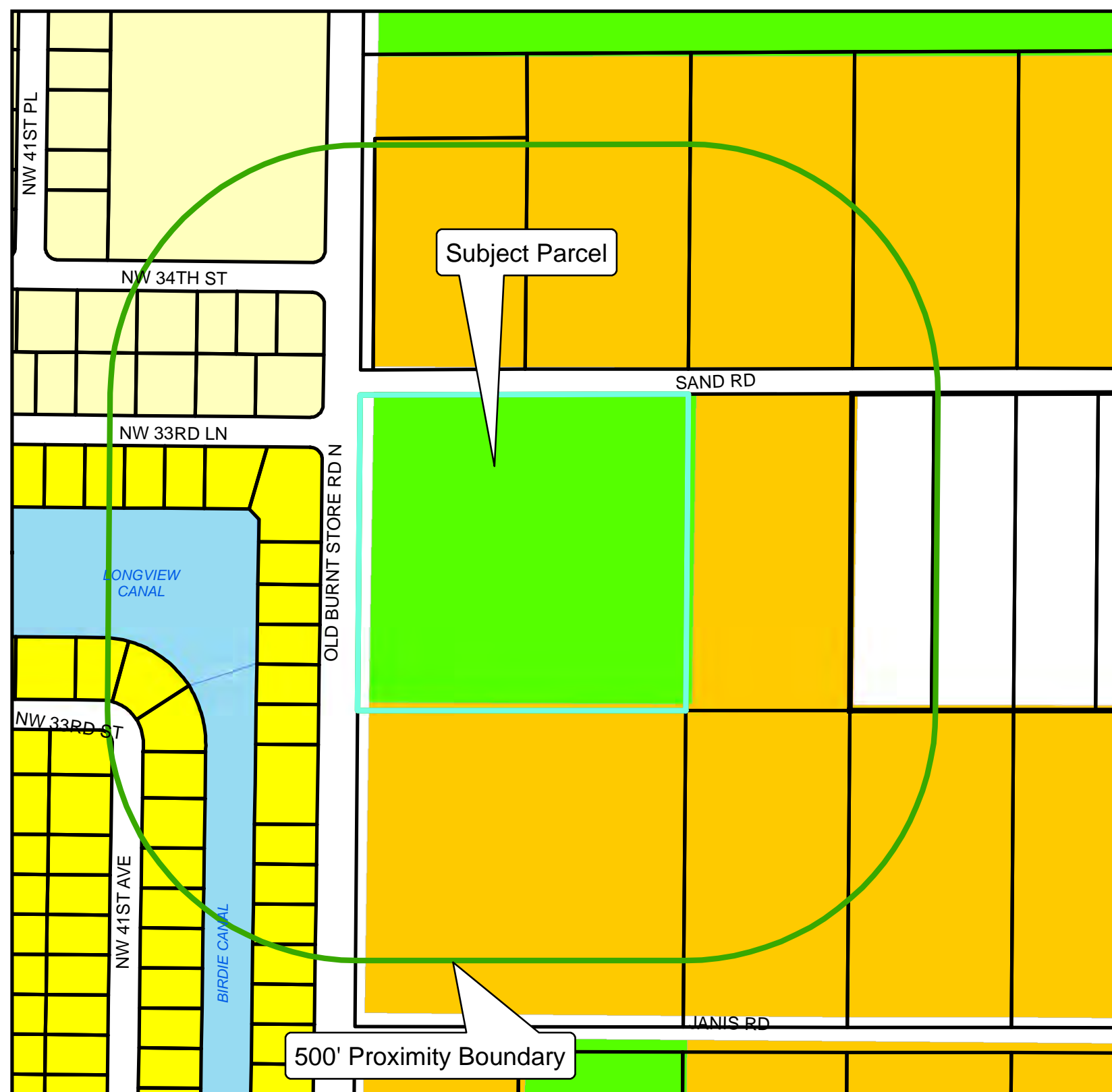


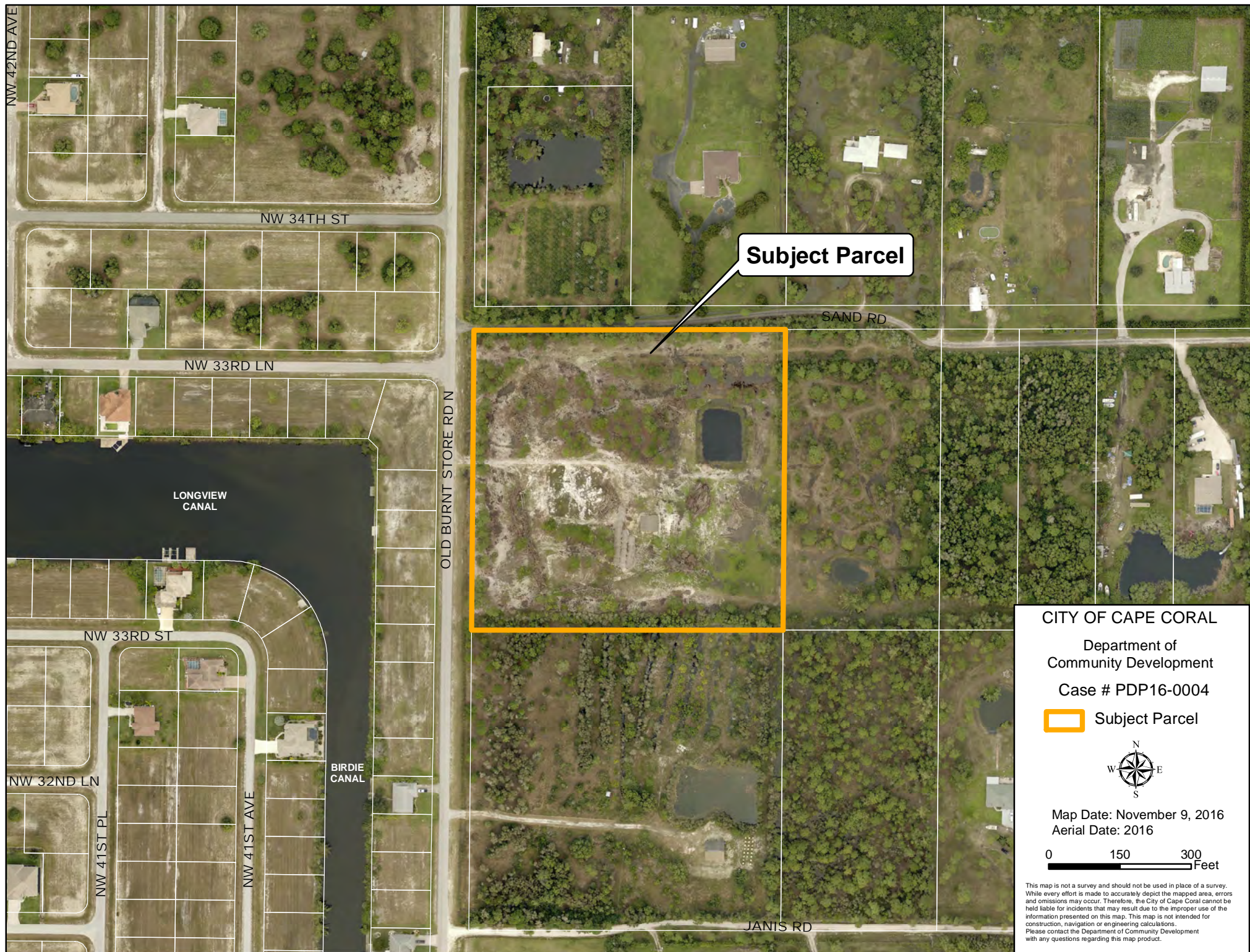
NOVEMBER 3, 2016

0 110 220 330 440 Feet

This map is not a survey and should not be used in place of a survey. While every effort is made to accurately depict the mapped area, errors and omissions may occur. Therefore, the City of Cape Coral cannot be held liable for incidents that may result due to the improper use of the information presented on this map. This map is not intended for construction, navigation or engineering calculations. Please contact the Department of Community Development with any questions regarding this map product.

KRKA





CITY OF CAPE CORAL

Department of
Community Development

Case # PDP16-0004

 Subject Parcel



Map Date: November 9, 2016
Aerial Date: 2016

0 150 300
Feet

This map is not a survey and should not be used in place of a survey. While every effort is made to accurately depict the mapped area, errors and omissions may occur. Therefore, the City of Cape Coral cannot be held liable for incidents that may result due to the improper use of the information presented on this map. This map is not intended for construction, navigation or engineering calculations. Please contact the Department of Community Development with any questions regarding this map product.



DEPARTMENT OF COMMUNITY DEVELOPMENT
REQUEST FOR REZONING APPLICATION
Questions: 239-574-0776

Case # 2A17-0001

REQUEST FOR A REZONING

FEE \$2,050.00 first 3 acres plus \$220.00 each additional acre over 3 up to 20 acres; \$22.00 per acre over the first 20 acres. In addition to the application fee, all required advertising costs are to be paid by the applicant (ORD 39-03, Sec. 5.4). Advertising costs will be billed and must be paid prior to hearing.

Following the approval of your request, the applicant shall be responsible for paying the City to electronically record the final signed Resolution or Ordinance with the Lee County Clerk of Court. Until this fee is paid, restrictions on the issuance of any City permits will remain on the affected property that will prevent the city from issuing any applicable building permits, site plans, certificates of use, or certificates of occupancy for any property covered by the Resolution or Ordinance.

OWNER OF PROPERTY

JOSE W. TOLEDO
Email: JSOWALTO901@HOTMAIL.COM

Address: 60 HOLLYHOCK RD.
City LEVI T TOWN State: NY Zip 11756
Phone: 516 949 9833

AUTHORIZED REPRESENTATIVE

Address: _____
City _____ State: _____ Zip _____
Phone: _____
Email: JSOWALTO901@HOTMAIL.COM
Unit 68 Block 1939 Lot(s) 42+43 Subdivision _____
Address of Property 401 SW 7TH PL
Current Zoning _____ Plat Book _____, Page _____
Proposed Zoning COMERCIAL PROPERTY Strap Number _____

THIS APPLICATION SHALL ALSO HAVE ANY ADDITIONAL REQUIRED SUPPORTING DOCUMENTS

The owner of this property, or the applicant agrees to conform to all applicable laws of the City of Cape Coral and to all applicable Federal, State, and County laws and certifies that all information supplied is correct to the best of their knowledge.

If the owner does not own the property in his/her personal name, the owner must sign all applicable forms in his/her corporate capacity.



DEPARTMENT OF COMMUNITY DEVELOPMENT
REQUEST FOR REZONING APPLICATION
Questions: 239-574-0776

Case # 2A17-0001

(SIGNATURE MUST BE NOTARIZED)

JOSE W TOLEDO

NAME (PLEASE TYPE OR PRINT)

APPLICANT'S SIGNATURE

STATE OF

NY

, COUNTY OF

QUEENS

Sworn to (or affirmed) and subscribed before me this 13th day of January, 2017, by
NYS License #51757737 who is personally known or produced JOSE W. TOLEDO
as identification.

Exp. Date:

06/16/2019

Commission Number:

01DE5080315

Signature of Notary Public:

Printed name of Notary Public:

JUAN A. DELAGUARDA

(SIGNATURE MUST BE NOTARIZED)

Juan A. Delaguarda
Notary Public
State of New York
No. 01DE5080315
Qualified in Queens County
Term Expires 06/16/2019



DEPARTMENT OF COMMUNITY DEVELOPMENT
REQUEST FOR REZONING APPLICATION

Questions: 239-574-0776

Case # 2A17-0001

ACKNOWLEDGEMENT FORM

I have read and understand the above instructions. Hearing date(s) will be confirmed when I receive a copy of the Notice of Public Hearing stipulating the day and time of any applicable hearings.

I acknowledge that I, or my representative, must attend any applicable meetings scheduled for the Hearing Examiner, Planning & Zoning Commission/Local Planning Agency, and City Council.

I will have the opportunity, at the hearing, to present verbal information pertaining to my request that may not be included in my application.

I understand any decision rendered by the CITY shall be subject to a thirty (30) day appeal period. Any work performed within the thirty (30) day time frame or during the APPEAL process will be completed at the applicant's risk.

I understand I am responsible for all fees, including advertising costs. All fees are to be submitted to the City of Cape Coral with the application or the item may be pulled from the agenda and continued to future date after fees are paid.

Please obtain all necessary permits prior to commencing any phase of construction.

Please indicate on a separate sheet those persons to whom you wish a copy of the Public Hearing Notice sent.

By submitting this application, I acknowledge and agree that I am authorizing the City of Cape Coral to inspect the subject property and to gain access to the subject property for inspection purposes reasonably related to this application and/or the permit for which I am applying.

I hereby acknowledge that I have read and understood the above affidavit on the 13th day of January, 2017

JOSE W TOLEDO

NAME (PLEASE TYPE OR PRINT)

STATE OF NEW YORK COUNTY OF

[Signature]
APPLICANT'S SIGNATURE

QUEENS

Subscribed and sworn to (or affirmed) before me this 13th day of January, 2017, by JOSE W TOLEDO who is personally known or NYS LICENSE #517 577 737 as identification.

Exp. Date: 06/16/2019 Commission Number: 01DE5080315

Signature of Notary Public: [Signature]

Printed name of Notary Public: JUAN A. DELAGUARDIA

Juan A. Delaguarda
Notary Public
State of New York
No. 01DE5080315
Qualified in Queens County
Term Expires 06/16/2019



DEPARTMENT OF COMMUNITY DEVELOPMENT
REQUEST FOR REZONING APPLICATION
Questions: 239-574-0776

Case # 2A17-0001

DOCUMENTARY EVIDENCE (LUDR, Section 8.3.1.C.6.f)

A copy of all documentary evidence shall be made available to the decision-making body or the Hearing Examiner and to staff no later than two business days prior to the hearing of the application. This requirement includes information that the applicant intends to present at public hearing.

I have read the above requirement and agree to comply with this provision.

JOSE W. TOLEDO
OWNER/APPLICANT (PLEASE TYPE OR PRINT)

[Signature]
OWNER/APPLICANT SIGNATURE

(SIGNATURE MUST BE NOTARIZED)

STATE OF New York COUNTY OF Queens

Sworn to (or affirmed) and subscribed before me on this 13th day of January, 2017
by JOSE W TOLEDO, who is personally known or who has produced NYS as identification.

Exp. Date 06-16-2019
Commission # 01DE5080215

[Signature]
Signature of Notary Public
Juan A. Delaguarda
Print Name of Notary Public

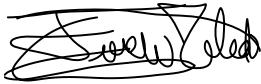
Juan A. Delaguarda
Notary Public
State of New York
No. 01DE5080315
Qualified in Queens County
Term Expires 06/16/2019

January 19, 2017

Dear City of Cape Coral,

The reason I am doing the request for rezoning for the property: 401 SW 7th PL Cape Coral FL is to sell this property. This is why I have to change this land to a commercial property. I want to change the zoning residence of: RD (Residential Development) to C-1 (Pedestrian Commercial). If you have any questions please call me. Thank You Very Much.

Sincerely,

A handwritten signature in black ink, appearing to read "Jose Toledo", with a stylized flourish at the end.

Jose Toledo

Planning Division Case Report

Case No: ZA17-0001

Applicant: Jose Toledo

Request: Approval of a rezoning to from Residential Development (RD) to Pedestrian Commercial (C-1).

Staff Recommendation: **Approval**

Site Information:

The property is an undeveloped 10,000 sq. ft. site at 401 SW 7th Place. The site is in Block 1939. Development in Block 1939 consists of scattered single-family homes and undeveloped parcels and a gymnastics studio at the northern end of the block. The surrounding area includes commercial businesses to the north and west and a mix of single-family homes and undeveloped parcels to the south and east. The site is located at the intersection of two local roads; SW 7th Place and SW 4th Street. The site has access to municipal utilities such water, sewer, and irrigation. The surrounding future land use designation and zoning is listed below:

<i>Subject Property:</i>	<i>Future Land Use</i>	<i>Zoning</i>
<i>Current:</i>	Commercial/Professional (CP)	Residential Development (RD)
<i>Proposed:</i>	N/A	Pedestrian Commercial (C-1)
	<i>Surrounding Future Land Use</i>	<i>Surrounding Zoning</i>
<i>North:</i>	Pine Island Road District (PIRD)	Corridor (CORR)
<i>South:</i>	CP	(RD)
<i>East:</i>	PIRD/ Single-Family Residential (SF)	CORR/RD
<i>West:</i>	PIRD	CORR

Summary:

The site has a Commercial/Professional (CP) future land use designation and a Residential Development (RD) zoning designation. The future land use designation was amended in 2000 from Single-Family/Multi-Family (SM) to CP. The property has retained the RD zoning since 1990. There are three additional properties in Block 1939 that have a CP future land use designation and an RD zoning designation. All four properties are in the western half of Block 1939 and total 40,000 sq. ft. The applicant has requested the rezoning from RD to Pedestrian Commercial (C-1) to make the future land use and the zoning compatible. There are no other sites in the surrounding area with C-1 zoning, however, multiple properties to the north, east and west have Corridor (CORR) zoning which allows more a greater number of uses than the C-1 zoning district. The site is adjacent to one property that has Single-Family Residential (R-1B) zoning¹,

¹ To the east

however, that property is also adjacent to a site with CORR zoning. While small, the rezoning would increase the amount of commercially zoned land in the City. Single-family homes are in the surrounding area, however, multiple properties with commercial or mixed-used zoning are also nearby.

The request is consistent with the City's standards for rezoning in LUDR, Section 8.7 and with the City's Comprehensive Plan, Chapter 4, Future Land Use Element.

Positive Aspects of Application:	<ul style="list-style-type: none">• Proposed zoning is compatible with future land use designation• Existing commercial/mixed-use site in the area• Increase in commercial lands
Negative Aspects of Application:	<ul style="list-style-type: none">• Single-family homes are nearby• Would be only property in area with C-1 zoning
Mitigating Factors	<ul style="list-style-type: none">• Three other properties have a CP future land use designation with RD zoning• The owners of these properties may request similar rezoning in the future



Detailed Analysis:

Comprehensive Plan

The following policies are applicable to the proposed rezone:

Chapter 4 Future Land Use Element, Policy 1.15.C, Commercial/Professional (CP):

“Intensities of use in the Commercial/Professional land use classification shall not exceed a lot floor area ratio (FAR) of 1.0...”

Response: No development is proposed with the rezone; however, all future development will be limited to a FAR of 1.0.

“Permitted uses will ultimately depend upon the zoning district of the subject parcel. Generally, three zoning districts are found in the Commercial/Professional future land use classification...”

Response: The applicant is requesting a rezone to Pedestrian Commercial (C-1).

"The Pedestrian Commercial (C-1) District is designed to facilitate a broad variety of large or small commercial uses. Uses allowed in the C-1 district range from a variety of small or neighborhood-based commercial uses to larger retail or service uses, which may serve a relatively large trade area and, which may be developed as major shopping facilities. As many commercial uses have the potential to generate relatively high levels of vehicular trips from customers and sometimes delivery vehicles, preferred location for the C-1 district have direct access onto arterial or collector and adequate depth (a minimum of 250 feet) for larger-scale development..."

Response: The site lacks the preferred adequate depth and does not have the preferred direct access onto an arterial or collector road. The closest access to an arterial or collector is Skyline Boulevard to the west which is approximately 1,100 feet away.

"In certain locations, fragmented ownership of relatively small properties, or other factors, may preclude the creation of larger properties with access onto a collector or arterial roadway. Under such circumstances, it may be appropriate for the C-1 Zoning District to place additional limits on the intensities of commercial development on these properties. It may also be appropriate, under certain circumstances to place restriction on some commercial uses, such as those with high trip generation rates, adverse aesthetic attributes, and generation of disturbing noises or odors. Factors to consider when establishing such limits on intensities or uses include the following: the depth of the property, whether the property is adjacent to a waterway, whether the property is adjacent to or proximate to future land use classifications or zoning districts that allow residential uses, and/or the functional classification of street(s) available for street access. The placement of limitations upon the types and intensities of uses allowed within the C-1 zoning district, in accordance with the factors described above, is intended to reduce the conflicts between the C-1 District and adjacent or nearby residential zoning districts..."

Response: The C-1 zoning district has two regulations that are intended to place limitations on C-1 properties that either lack ideal road access or are near single-family homes. The first regulation requires a special exception for various uses which may be considered intrusive, if the proposed site only has access from a local street. The second regulation requires a Planned Development (PDP) or an enhance buffer if the site is adjacent to properties with a residential zoning designation. The intent of these regulations is to increase compatibility of C-1 sites with surrounding residential areas.

Land Use and Development Regulations

The Planning Division has reviewed this request based on the ten General Standards provided within Section 8.7.3.B of the Land Use and Development Regulations (LUDR) and offers the following analysis for consideration:

- 1. The extent to which the property is diminished by the proposed zoning of the property:*

The requested rezone should increase the value of the property. The C-1 district allows 73 permitted uses and 19 special exception uses, while the RD district allows 14 permitted uses and 20 special exception uses. The greater number of uses will allow a wider range of development options for the current or future owner of the site. Additionally, many uses allowed in the C-1 are commercial whereas most uses allowed in the RD are residential or public service uses².

2. The extent to which the removal of a proposed change in zoning depreciates the value of other property in the area:

The proposed rezone should not diminish the value of surrounding properties because of nearby properties with similar zoning. Most properties surrounding the site have the CORR zoning designation and the only properties with a residential zoning designation are south of the site in Block 1939, except for one site that is adjacent to the east.

3. The suitability of the property for the zoning purpose:

Planning staff finds that the property does not have ideal location or size, however, the C-1 zoning district provides regulations that offset those factors. The site lacks ideal access from a collector or arterial roadway, however, SW 4th Street already serves several commercial establishments near the site. Development on the site will also be regulated by two provisions in the C-1 district that assist in making future development compatible with the residential areas south of the site. The C-1 district will require a special exception for uses that could generate high levels of traffic and noise such as auto repair shops or gas stations. The C-1 district will also require a PDP or an enhanced buffer from the residential property to the east.

4. The character of the neighborhood, existing uses, zoning of nearby and surrounding properties, and compatibility of the proposed zoning:

The surrounding neighborhood is predominantly commercial in zoning³ and development to the north, west, and east. South of the site are three properties with a CP future land use designation and RD zoning, while the remainder of the properties to the south are residential in zoning and development. Since most the surrounding is commercial, staff finds that the proposed zoning will be compatible with the neighborhood. The C-1 district also requires that the site will be required to develop with a PDP or an enhanced buffer.

² Such as churches, parks, or essential services.

³ CORR zoning.

5. The relative gain to the community as compared to the hardship, if any imposed, from rezoning said property:

Planning staff finds that the proposed rezoning to C-1 will increase non-residential uses in an area with existing commercial zoning. The rezone will also add additional non-residential ad valorem tax revenue.

6. The community need for the use proposed by the zoning:

As noted in the Future Land Use Element of the City of Cape Coral Comprehensive Plan, the City has identified a need for increasing commercial land within Cape Coral. The proposed rezoning will help to reduce the commercial land deficit within the City of Cape Coral and allows for commercial development in a commercial area.

7. Length of time the property proposed to be rezoned has been vacant, as zoned, when considered in the context of the City of Cape Coral Comprehensive Land Use Plan for the development of the proposed property and surrounding property:

The property's Future Land Use was amended in 2000 from Single-Family/Multi-Family(SM) to Commercial Professional(CP). The property was rezoned in 1990 from Multi-Family Residential (R-3) to Residential Development (RD).

8. The extent to which the proposed zoning promotes the health, safety, morals, or general welfare of this community:

Because the proposed zoning is consistent with the City's Comprehensive Land Use Plan, the change will assist with the community's long-term vision of adding commercial land at an appropriate location. The proposed rezoning will not negatively affect the health, safety or welfare of the community because other properties with commercial zoning are already within the general proximity of the site.

9. The extent to which the proposed zoning will impact the level of service standards for public facilities as specified in the Comprehensive Plan.

The subject parcel is in the City's Urban Service Transition Area. The site has access to the City water, sewer, and irrigation.

10. Whether the proposed zoning is consistent with the City of Cape Coral's Comprehensive Land Use Plan.

The proposed rezone is consistent with the City's Comprehensive Plan Policy 1.15 as the Future Land Use classification is CP. Properties with the CP future land use are compatible

with the C-1, Professional Office (P-1), and the Professional Business (P-2) zoning districts. Staff finds that the requested C-1 zoning is appropriate for the site.

Public Notification

This case will be publicly noticed as required by LUDR, Section 8.3.2 as further described below.

Publication: A legal ad will be prepared and sent to the *New Press*. The ad will appear in the *News Press* a minimum of 10 days prior to the public hearing scheduled before the Hearing Examiner and the City Council.

Written notice: Property owners within 500 feet from the property line of the subject property will receive written notification of the scheduled public hearing. These letters will be mailed to the aforementioned parties a minimum of 10 days prior to the public hearing scheduled before the Hearing Examiner and the City Council.

Posting of a Sign: A sign will be posted on the subject property a minimum of 10 days prior to the public hearing scheduled before the Hearing Examiner and City Council.

Staff Recommendation:

This request is consistent with the City's Comprehensive Plan and the City's LUDR. Staff finds that rezoning request is suitable for the subject property and with the surrounding neighborhood.

Therefore, the Planning Division recommends **approval** of the rezoning to C-1 based on the application.

Staff Contact Information:

Chad Boyko, AICP
Principal Planner
(239) 573-3162
cboyko@capecoral.net

NOTICE OF PUBLIC HEARING

CASE NUMBER: ZA17-0001

REQUEST: Approval of a rezoning from Residential Development (RD) to Pedestrian Commercial (C-1)

LOCATION: 401 SW 7th Place

CAPE CORAL STAFF CONTACT: Chad Boyko, Principal Planner, (239) 573-3162, cboyko@capecoral.net

PROPERTY OWNER(S): Jose Toledo

UPCOMING PUBLIC HEARING: Notice is hereby given that the City of Cape Coral Hearing Examiner will hold a public hearing at 9:00AM on Tuesday, May 2nd, 2017 on the above mentioned case. The public hearing will be held in the City of Cape Coral Council Chambers, 1015 Cultural Park Boulevard, Cape Coral, FL.

All interested parties are invited to appear and be heard. All materials presented before the Hearing Examiner will become a permanent part of the record. The public hearing may be continued to a time and date certain by announcement at this public hearing without any further published notice. Copies of the staff report will be available 5 days prior to the hearing. The file can be reviewed at the Cape Coral Community Development Department, Planning Division, 1015 Cultural Park Blvd., Cape Coral, FL.

After Hearing Examiner has made a written recommendation, the case will be scheduled for a public hearing before the City Council who will review the recommendation and make a final decision. You will receive another public hearing notice when this case is scheduled for a City Council hearing.

DETAILED INFORMATION: The case report and colored maps for this application are available at the City of Cape Coral website, www.capecoral.net/publichearing (Click on 'Public Hearing Information', use the case number referenced above to access the information); or, at the Planning Division counter at City Hall, between the hours of 7:30 AM and 4:30 PM

HOW TO CONTACT: Any person may appear at the public hearing and be heard, subject to proper rules of conduct. You are allowed sufficient time to write or appear at the public hearing to voice your objections or approval. Written comments filed with the Director will be entered into the record. Please reference the case number above within your correspondence and mail to: Department of Community Development, Planning Division, P.O. Box 150027, Cape Coral, FL 33915-0027. The hearings may be continued from time to time as necessary.

ADA PROVISIONS: In accordance with the Americans With Disabilities Act, persons needing a special accommodation to participate in this proceeding should contact the Human Resources Department whose office is located at Cape Coral City Hall, 1015 Cultural Park Boulevard, Cape Coral, Florida; telephone 1-239-574-0530 for assistance; if hearing impaired, telephone the Florida Relay Service Numbers, 1-800-955-8771 (TDD) or 1-800-955-8770 (v) for assistance.

by order of
Rebecca van Deutekom, MMC
City Clerk
REF #
AD# 2087301 Apr. 22, 2017

Department of Community Development
Planning Division

AFFIDAVIT

IN RE: APPLICATION OF: Jose Toledo

APPLICATION NO: ZA17-0001

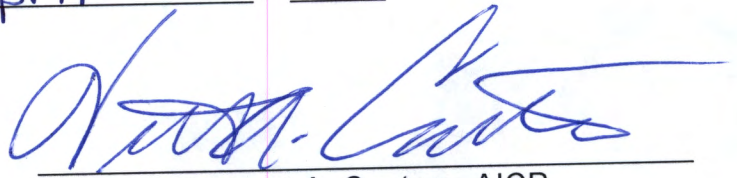
STATE OF FLORIDA)
) §
COUNTY OF LEE)

I, Vincent A. Cautero, AICP having first been duly sworn according to law, state on my oath the following:

That I am the Director of the Department of Community Development and responsible in performing duties as required for the City of Cape Coral.

That pursuant to City of Cape Coral Code. Section 8.3.2A and Section 8.11.3.A all required written notice and publication has been provided. Also, posting of a sign has been done when applicable per Section 8.3.2A.

DATED this 24th day of April, 2017.

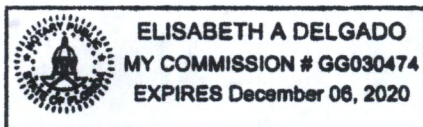


Vincent A. Cautero, AICP

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 24th day of April, 2017, by Vincent A. Cautero, AICP, who is personally known to me and who did not take an oath.

Exp. Date 12/6/20 Commission # 66030474



Elisabeth A. Delgado
Signature of Notary Public

Elisabeth A. Delgado
Print Name of Notary Public







CITY OF CAPE CORAL

Department of
Community Development
Planning Division

CURRENT ZONING MAP 500 Proximity Boundary

Case No.ZA17-0001

Legend

-  Subject Parcel
-  500' Boundary
-  CORR
-  R-1B
-  RD
-  Canals/Lakes



April 19, 2017

0 60 120 180 240 Feet

This map is not a survey and should not be used in place of a survey. While every effort is made to accurately depict the mapped area, errors and omissions may occur. Therefore, the City of Cape Coral cannot be held liable for incidents that may result due to the improper use of the information presented on this map. This map is not intended for construction, navigation or engineering calculations. Please contact the Department of Community Development with any questions regarding this map product.

KRKA

SW PINE ISLAND RD

SW 3RD ST

SW 3RD TER

SW 4TH ST

SW 5TH TER

SW 5TH ST

Subject Parcel

SW 7TH PL

SW 7TH CT

SW 4TH TER

500' Proximity Boundary







CITY OF CAPE CORAL

Department of
Community Development
Planning Division

PROPOSED ZONING MAP 500 Proximity Boundary

Case No.ZA17-0001

Legend

-  Subject Parcel
-  500' Boundary
-  CORR
-  R-1B
-  RD
-  Canals/Lakes



April 19, 2017

0 60 120 180 240 Feet

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KRKA

SW PINE ISLAND RD

SW 3RD ST

Subject Parcel

SW 3RD TER

SW 4TH ST

SW 7TH CT

SW 7TH PL

SW 5TH TER

SW 5TH ST

500' Proximity Boundary

SW 4TH TER



CITY OF CAPE CORAL

Department of
Community Development
Planning Division





FUTURE LAND USE MAP 500 Proximity Boundary

Case No.ZA17-0001

Legend

-  Subject Parcel
-  500' Boundary

Future Land Use

-  SF
-  PIRD
-  CP
-  Canals/Lakes



April 19, 2017

0 60 120 180 240 Feet

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KRKA

SW PINE ISLAND RD

SW 3RD ST

Subject Parcel

SW 3RD TER

SW 4TH ST

SW 7TH PL

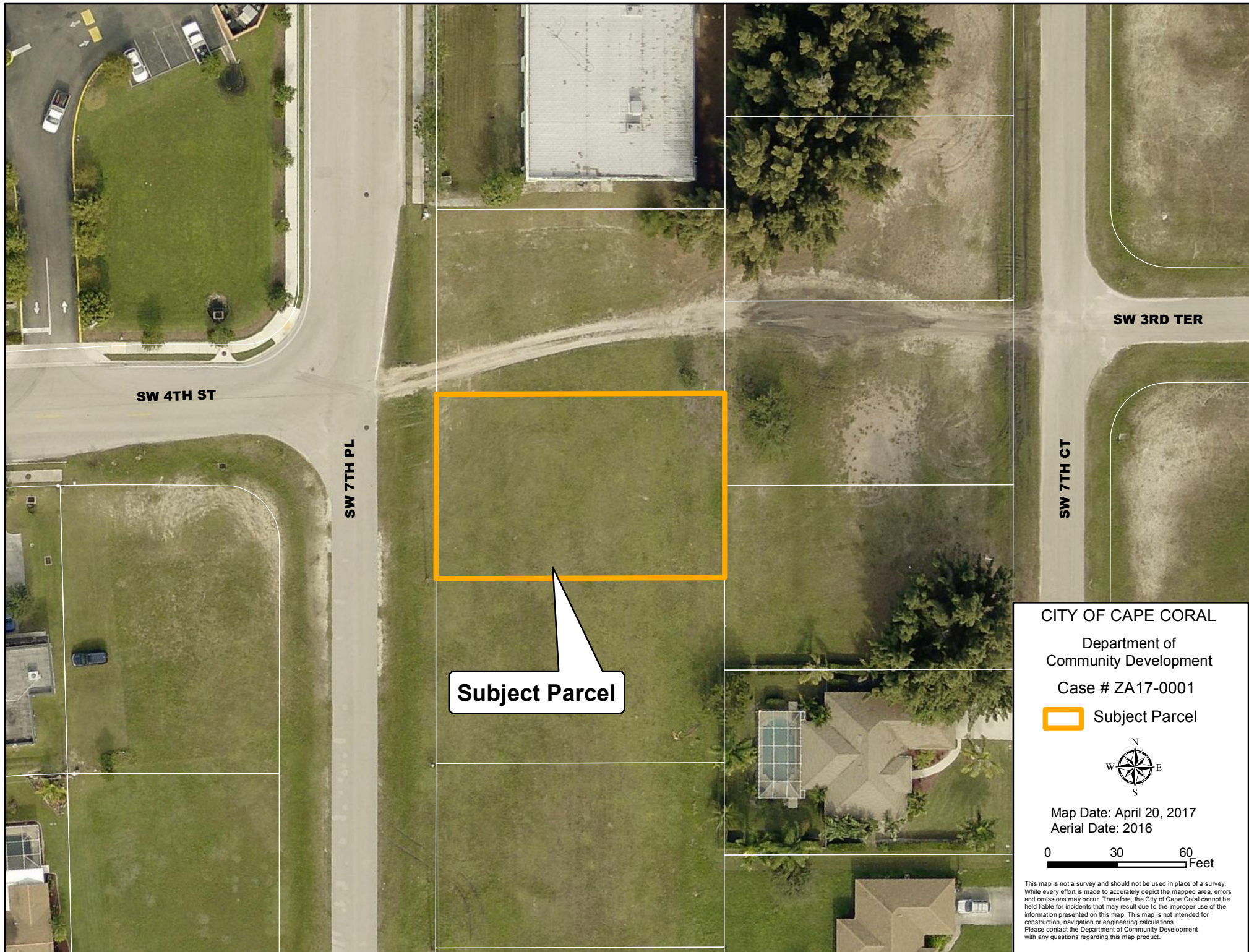
SW 7TH CT

SW 5TH TER

SW 5TH ST

500' Proximity Boundary


SW 4TH TER



CITY OF CAPE CORAL

Department of
Community Development

Case # ZA17-0001

 Subject Parcel



Map Date: April 20, 2017
Aerial Date: 2016

0 30 60
Feet

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